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ENGROSSED SUBSTITUTE SENATE BILL 6477

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State of Washington

62nd Legislature

2012 Regular Session

By Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Conway, Holmquist Newbry, and Kohl-Welles)

READ FIRST TIME 02/03/12.

1 AN ACT Relating to liquor licensing, sales, and tasting; amending  
2 RCW 66.12.240, 66.20.300, 66.20.310, 66.24.440, and 66.24.363;  
3 reenacting and amending RCW 66.28.310; adding a new section to chapter  
4 66.20 RCW; adding a new section to chapter 66.24 RCW; and adding a new  
5 section to chapter 66.16 RCW.

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

7 **Sec. 1.** RCW 66.12.240 and 2009 c 361 s 1 are each amended to read  
8 as follows:

9 (1) Nothing in this title applies to or prevents a day spa, wedding  
10 boutique, or art gallery from offering or supplying without charge wine  
11 or beer by the individual glass to a customer for consumption on the  
12 premises. However, the customer must be at least twenty-one years of  
13 age and may only be offered one glass of wine or beer, and wine or beer  
14 served or consumed shall be purchased from a Washington state licensed  
15 retailer or a Washington state liquor store or agency at full retail  
16 price. A day spa, wedding boutique, or art gallery offering wine or  
17 beer without charge may not advertise the service of complimentary wine  
18 or beer and may not sell wine or beer in any manner. If the wine or  
19 beer is offered by a day spa that provides massages, the wine or beer

1 may not be offered to the customers until the massage is completed.

2 Any employee involved in the service of wine or beer must complete a  
3 board-approved limited alcohol server training program.

4 (2) For the purposes of this section:

5 (a) "Art gallery" means a room or building devoted to the  
6 exhibition and/or sale of the works of art.

7 (b) "Wedding boutique" means a business primarily engaged in the  
8 sale of wedding merchandise.

9 NEW SECTION. Sec. 2. A new section is added to chapter 66.20 RCW  
10 to read as follows:

11 (1) There shall be a permit known as a day spa permit to allow the  
12 holder to offer or supply without charge wine or beer by the individual  
13 glass to a customer for consumption on the premises. The customer must  
14 be at least twenty-one years of age and may only be offered one glass  
15 of wine or beer, and wine or beer served or consumed shall be purchased  
16 from a Washington state licensed retailer. A day spa offering wine or  
17 beer without charge may not advertise the service of complimentary wine  
18 or beer and may not sell wine or beer in any manner. If the wine or  
19 beer is offered by a day spa that provides massages, the wine or beer  
20 may not be offered to the customers until the massage is completed.

21 (2) For the purposes of this section, "day spa" means a business  
22 that offers at least three of the following beauty services:  
23 Shampooing, cutting, styling, or dyeing hair, manicures, pedicures,  
24 facials, massages, and the use of body toning equipment.

25 (3) The annual fee for this permit is one hundred twenty-five  
26 dollars.

27 NEW SECTION. Sec. 3. A new section is added to chapter 66.24 RCW  
28 to read as follows:

29 (1) There shall be a license to be designated as a senior center  
30 license. This shall be a license issued to a nonprofit organization  
31 whose primary service is providing recreational and social activities  
32 for seniors on the licensed premises. This license shall permit the  
33 licensee to sell spirits by the individual glass, including mixed  
34 drinks and cocktails mixed on the premises only, beer and wine, at  
35 retail for consumption on the premises.

36 (2) To qualify for this license, the applicant entity must:

- 1 (a) Be a nonprofit organization under chapter 24.03 RCW;
- 2 (b) Be open at times and durations established by the board; and
- 3 (c) Provide limited food service as defined by the board.
- 4 (3) All alcohol servers must have a valid mandatory alcohol server
- 5 training permit.
- 6 (4) The board shall adopt rules to implement this section.
- 7 (5) The annual fee for this license shall be seven hundred twenty
- 8 dollars.

9 **Sec. 4.** RCW 66.20.300 and 2011 c 325 s 5 are each amended to read  
10 as follows:

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

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

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

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

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

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

25 (a) Premises licensed to sell alcohol by the glass or by the drink,  
26 or in original containers primarily for consumption on the premises as  
27 authorized by RCW 66.24.320, 66.24.330, 66.24.350, 66.24.400,  
28 66.24.425, 66.24.450, 66.24.570, (~~and~~) 66.24.610, and section 3 of  
29 this act;

30 (b) Distillery licensed pursuant to RCW 66.24.140 that is  
31 authorized to serve samples of its own production;

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

34 (d) Grocery store licensed under RCW 66.24.360, but only with  
35 respect to employees whose duties include serving during tasting  
36 activities under RCW 66.24.363.

1       **Sec. 5.** RCW 66.20.310 and 2011 c 325 s 4 are each amended to read  
2 as follows:

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

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

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

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

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

21       (c) Except as provided in (d) of this subsection, no licensee  
22 holding a license as authorized by RCW 66.24.320, 66.24.330, 66.24.350,  
23 66.24.400, 66.24.425, 66.24.450, 66.24.570, 66.24.600, ~~((and))~~  
24 66.24.610, and section 3 of this act may employ or accept the services  
25 of any person without the person first having a valid class 12 or class  
26 13 permit.

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

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

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

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

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

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

6 (5) The suspension or revocation of a permit under this section  
7 does not relieve a licensee from responsibility for any act of the  
8 employee or agent while employed upon the retail licensed premises.  
9 The board may, as appropriate, revoke or suspend either the permit of  
10 the employee who committed the violation or the license of the licensee  
11 upon whose premises the violation occurred, or both the permit and the  
12 license.

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

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

21 (7) Grocery stores licensed under RCW 66.24.360, the primary  
22 commercial activity of which is the sale of grocery products and for  
23 which the sale and service of beer and wine for on-premises consumption  
24 with food is incidental to the primary business, and employees of such  
25 establishments, are exempt from RCW 66.20.300 through 66.20.350, except  
26 for employees whose duties include serving during tasting activities  
27 under RCW 66.24.363.

28 **Sec. 6.** RCW 66.24.440 and 2011 c 325 s 3 are each amended to read  
29 as follows:

30 Each spirits, beer, and wine restaurant, spirits, beer, and wine  
31 private club, hotel, spirits, beer, and wine nightclub, sports  
32 entertainment facility (~~(licensee, and)~~), VIP airport lounge, and  
33 senior center licensee shall be entitled to purchase any spirituous  
34 liquor items salable under such license from the board at a discount of  
35 not less than fifteen percent from the retail price fixed by the board,  
36 together with all taxes.

1       **Sec. 7.** RCW 66.28.310 and 2011 c 119 s 101 and 2011 c 66 s 3 are  
2 each reenacted and amended to read as follows:

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

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

12       (ii) Must bear imprinted advertising matter of the industry member  
13 only, except imprinted advertising matter of the industry member can  
14 include the logo of a professional sports team which the industry  
15 member is licensed to use;

16       (iii) May be provided by industry members only to retailers and  
17 their employees and may not be provided by or through retailers or  
18 their employees to retail customers; and

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

20       (b) An industry member is not obligated to provide any such branded  
21 promotional items, and a retailer may not require an industry member to  
22 provide such branded promotional items as a condition for selling any  
23 alcohol to the retailer.

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

1 (2) Nothing in RCW 66.28.305 prohibits:  
2 (a) An industry member from providing to a special occasion  
3 licensee and a special occasion licensee from receiving services for:  
4 (i) Installation of draft beer dispensing equipment or advertising;  
5 (ii) Advertising, pouring, or dispensing of beer or wine at a beer  
6 or wine tasting exhibition or judging event; or  
7 (iii) Pouring or dispensing of spirits by a licensed domestic  
8 distiller or the accredited representative of a distiller,  
9 manufacturer, importer, or distributor of spirituous liquor licensed  
10 under RCW 66.24.310; or  
11 (b) Special occasion licensees from paying for beer or wine  
12 immediately following the end of the special occasion event; or  
13 (c) Wineries or breweries that are participating in a special  
14 occasion event from paying reasonable booth fees to the special  
15 occasion licensee.

16 (3) Nothing in RCW 66.28.305 prohibits industry members from  
17 performing, and retailers from accepting the service of building,  
18 rotating, and restocking displays and stockroom inventories; rotating  
19 and rearranging can and bottle displays of their own products;  
20 providing point of sale material and brand signs; pricing case goods of  
21 their own brands; and performing such similar business services  
22 consistent with board rules, or personal services as described in  
23 subsection (5) of this section.

24 (4) Nothing in RCW 66.28.305 prohibits:  
25 (a) Industry members from listing on their internet web sites  
26 information related to retailers who sell or promote their products,  
27 including direct links to the retailers' internet web sites; and  
28 (b) Retailers from listing on their internet web sites information  
29 related to industry members whose products those retailers sell or  
30 promote, including direct links to the industry members' web sites; or  
31 (c) Industry members and retailers from producing, jointly or  
32 together with regional, state, or local industry associations,  
33 brochures and materials promoting tourism in Washington state which  
34 contain information regarding retail licensees, industry members, and  
35 their products.

36 (5) Nothing in RCW 66.28.305 prohibits the performance of personal  
37 services offered from time to time by a domestic winery or certificate  
38 of approval holder to retailers when the personal services are (a)

1 conducted at a licensed premises, and (b) intended to inform, educate,  
2 or enhance customers' knowledge or experience of the manufacturer's  
3 products. The performance of personal services may include  
4 participation and pouring, bottle signing events, and other similar  
5 informational or educational activities at the premises of a retailer  
6 holding a spirits, beer, and wine restaurant license, a wine and/or  
7 beer restaurant license, a specialty wine shop license, a special  
8 occasion license, a grocery store license with a tasting endorsement,  
9 or a private club license. A domestic winery or certificate of  
10 approval holder is not obligated to perform any such personal services,  
11 and a retail licensee may not require a domestic winery or certificate  
12 of approval holder to conduct any personal service as a condition for  
13 selling any alcohol to the retail licensee, or as a condition for  
14 including any product of the domestic winery or certificate of approval  
15 holder in any tasting conducted by the licensee. Except as provided in  
16 RCW 66.28.150, the cost of sampling may not be borne, directly or  
17 indirectly, by any domestic winery or certificate of approval holder or  
18 any distributor. Nothing in this section prohibits wineries,  
19 breweries, microbreweries, certificate of approval holders, and retail  
20 licensees from identifying the producers on private labels authorized  
21 under RCW 66.24.400, 66.24.425, ((and)) 66.24.450, 66.24.360, and  
22 66.24.371.

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

28 (7) Nothing in RCW 66.28.305 prohibits the performance of personal  
29 services offered from time to time by a domestic brewery, microbrewery,  
30 or beer certificate of approval holder to grocery store licensees with  
31 a tasting endorsement when the personal services are (a) conducted at  
32 a licensed premises in conjunction with a tasting event, and (b)  
33 intended to inform, educate, or enhance customers' knowledge or  
34 experience of the manufacturer's products. The performance of personal  
35 services may include participation and pouring, bottle signing events,  
36 and other similar informational or educational activities. A domestic  
37 brewery, microbrewery, or beer certificate of approval holder is not  
38 obligated to perform any such personal services, and a grocery store



1 licensee may not require the performance of any personal service as a  
2 condition for including any product in any tasting conducted by the  
3 licensee.

4 (8) Nothing in RCW 66.28.305 prohibits an arrangement between a  
5 domestic winery and a restaurant licensed under RCW 66.24.320 or  
6 66.24.400 to waive a corkage fee.

7 (9) Nothing in this section prohibits professional sports teams who  
8 hold a retail liquor license or their agents from accepting bona fide  
9 liquor advertising from manufacturers, importers, distributors, or  
10 their agents for use in the sporting arena. Professional sports teams  
11 who hold a retail liquor license or their agents may license the  
12 manufacturer, importer, distributor, or their agents to use the name  
13 and trademarks of the professional sports team in their advertising and  
14 promotions, under the following conditions:

15 (a) Such advertising must be paid for by said manufacturer,  
16 importer, distributor, or their agent at the published advertising rate  
17 or at a reasonable fair market value.

18 (b) Such advertising may carry with it no express or implied offer  
19 on the part of the manufacturer, importer, distributor, or their agent,  
20 or promise on the part of the retail licensee whose operation is  
21 directly or indirectly part of the sporting arena, to stock or list any  
22 particular brand of liquor to the total or partial exclusion of any  
23 other brand.

24 NEW SECTION. **Sec. 8.** A new section is added to chapter 66.16 RCW  
25 to read as follows:

26 (1) The liquor control board must allow spirits sampling in former  
27 contract liquor stores for the purpose of promoting spirits products.  
28 Stores may apply for an endorsement to offer spirits tastings under  
29 this section.

30 (a) No store may hold more than one spirits sampling per week.

31 (b) The locations shall be approved by the board. Before the board  
32 determines which stores will be eligible to participate, it shall give:

33 (i) Due consideration to the location of the store with respect to  
34 the proximity of places of worship, schools, and public institutions;

35 (ii) Due consideration to motor vehicle accident data in the  
36 proximity of the store; and

1 (iii) Written notice by certified mail of the proposed spirits  
2 sampling to places of worship, schools, and public institutions within  
3 five hundred feet of the store proposed to offer spirits sampling.

4 (c) Sampling must be conducted under the following conditions:

5 (i) Sampling may take place only in an area of a store in which  
6 access to persons under twenty-one years of age is prohibited;

7 (ii) Samples may be provided free of charge;

8 (iii) Only persons twenty-one years of age or over may sample  
9 spirits;

10 (iv) Each sample must be one-quarter ounce or less, with no more  
11 than one ounce of samples provided per person per day;

12 (v) Tasting activities are subject to RCW 66.28.305 and 66.28.040  
13 and the cost of sampling may not be borne, directly or indirectly, by  
14 any liquor manufacturer, importer, or distributor;

15 (vi) Any person involved in the serving of such samples must have  
16 completed a mandatory alcohol server training program;

17 (vii) No person who is apparently intoxicated may sample spirits;

18 (viii) The product provided for sampling must be available for sale  
19 at the store where the sampling occurs at the time of the sampling; and

20 (ix) Customers must remain on the store premise while consuming  
21 samples.

22 (d) The liquor control board may prohibit sampling at a location  
23 that is within the boundaries of an alcohol impact area recognized by  
24 resolution of the board if the board finds that the sampling activities  
25 at the location are having an adverse effect on the reduction of  
26 chronic public inebriation in the area.

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

32 (f) All other criteria must be determined by the board.

33 (2) The liquor control board may adopt rules to implement this  
34 section.

35 (3) For the purposes of this section, "store" means a former  
36 contract liquor store premises as of May 31, 2012.

37 (4)(a) If a store is found to have committed a public safety  
38 violation in conjunction with tasting activities, the board may suspend

1 the licensee's tasting endorsement and not reissue the endorsement for  
2 up to two years from the date of the violation. If mitigating  
3 circumstances exist, the board may offer a monetary penalty in lieu of  
4 suspension during a settlement conference.

5 (b) RCW 66.08.150 applies to the suspension or revocation of an  
6 endorsement.

7 **Sec. 9.** RCW 66.24.363 and 2010 c 141 s 1 are each amended to read  
8 as follows:

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

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

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

17 (b) The licensee operates a fully enclosed retail area encompassing  
18 at least nine thousand square feet, except that the board may issue an  
19 endorsement to a licensee with a retail area encompassing less than  
20 nine thousand square feet if the board determines that no licensee in  
21 the community the licensee serves meets the square footage requirement  
22 and the licensee meets operational requirements established by the  
23 board by rule; and

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

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

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

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

32 (c) The licensee must have food available for the tasting  
33 participants;

34 (d) Customers must remain in the service area while consuming  
35 samples; and

36 (e) The service area and facilities must be located within the  
37 licensee's fully enclosed retail area and must be of a size and design

1 such that the licensee can observe and control persons in the area to  
2 ensure that persons under twenty-one years of age and apparently  
3 intoxicated persons cannot possess or consume alcohol.

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

7 (5) Tasting activities under this section are subject to RCW  
8 66.28.305 and 66.28.040 and the cost of sampling may not be borne,  
9 directly or indirectly, by any liquor manufacturer, importer, or  
10 distributor.

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

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

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

27 (c) RCW 66.08.150 applies to the suspension or revocation of an  
28 endorsement.

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

32 (9) Upon request the board may adjust the gross sales percentage in  
33 subsection (2)(a) of this section at the discretion of the board.

34 (10) The annual fee for the endorsement is two hundred dollars.  
35 The board shall review the fee annually and may increase the fee by  
36 rule to a level sufficient to defray the cost of administration and  
37 enforcement of the endorsement, except that the board may not increase

1 the fee by more than ten percent annually.

2 (~~(+10+)~~) (11) The board must adopt rules to implement this section.

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