

CERTIFICATION OF ENROLLMENT

SENATE BILL 5492

62nd Legislature
2011 Regular Session

Passed by the Senate March 4, 2011
YEAS 46 NAYS 3

President of the Senate

Passed by the House April 1, 2011
YEAS 92 NAYS 0

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 **SENATE BILL 5492** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5492

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Senators Schoesler, Hatfield, and Hewitt

Read first time 01/27/11. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to the Washington beer commission; and amending RCW
2 15.89.020, 15.89.040, 15.89.050, 15.89.100, and 15.89.110.

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

4 **Sec. 1.** RCW 15.89.020 and 2006 c 330 s 2 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) (~~"Affected producer" means any producer who is subject to this~~
9 ~~chapter.~~

10 ~~(2))~~ "Beer" means any malt beverage or malt liquor as the terms
11 are defined in chapter 66.04 RCW.

12 ~~((3))~~ (2) "Commission" means the Washington beer commission.

13 ~~((4))~~ (3) "Department" means the department of agriculture.

14 ~~((5))~~ (4) "Director" means the director of the department or the
15 director's duly authorized representative.

16 ~~((6))~~ (5) "Fiscal year" means the twelve-month period beginning
17 with January 1st of any year and ending December 31st.

18 ~~((7))~~ (6) "Producer" means any person or other entity licensed

1 under Title 66 RCW to produce beer within Washington (~~state and who~~
2 ~~produces less than one hundred thousand barrels of beer annually per~~
3 ~~location~~)).

4 ((+8)) (7) "Referendum" means a vote by (~~affected~~) producers
5 that is conducted by secret ballot.

6 **Sec. 2.** RCW 15.89.040 and 2006 c 330 s 5 are each amended to read
7 as follows:

8 (1) Upon receipt of a petition containing the signatures of five
9 beer producers from a statewide Washington state craft brewing trade
10 association or from other (~~affected~~) producers to implement this
11 chapter and to determine producer participation in the commission and
12 assessment under this chapter, the director shall:

13 (a) Conduct a referendum of beer producers. The requirements of
14 assent or approval of the referendum are met if:

15 (i) At least fifty-one percent by numbers of (~~affected~~) producers
16 participating in the referendum vote affirmatively; and

17 (ii) Thirty percent of the (~~affected~~) producers and thirty
18 percent of the production have been represented in the referendum to
19 determine assent or approval of participation and assessment. The
20 referendum shall be conducted within sixty days of receipt of the
21 petition; and

22 (b) Establish a list of beer producers from information provided by
23 the petitioners, by obtaining information on beer producers from
24 applicable producer organizations or associations or other sources
25 identified as maintaining the information. In establishing a current
26 list of beer producers and their individual production, the director
27 shall use the beer producer's name, mailing address, and production by
28 the producer in the preceding fiscal year. Information on each
29 producer shall be mailed to each beer producer on record with the
30 director for verification. All corrections shall be filed with the
31 director within twenty days from the date of mailing. The list of
32 (~~affected~~) producers shall be kept in a file by the director. The
33 list shall be certified as a true representation of the referendum
34 mailing list. Inadvertent failure to notify (~~an affected~~) a producer
35 does not invalidate a proceeding conducted under this chapter. The
36 director shall provide the commission the list of (~~affected~~)
37 producers after assent in a referendum as provided in this section.

1 (2) If the director determines that the requisite assent has been
2 given in the referendum conducted under subsection (1) of this section,
3 the director shall:

4 (a) Within sixty days after assent of the referendum held, appoint
5 the members of the commission; and

6 (b) Direct the commission to put into force the assessment as
7 provided for in RCW 15.89.110.

8 (3) If the director determines that the requisite assent has not
9 been given in the referendum conducted under subsection (1) of this
10 section, the director shall take no further action to implement or
11 enforce this chapter.

12 (4) Upon completion of the referendum conducted under subsection
13 (1) of this section, the department shall tally the results of the vote
14 and provide the results to (~~affected~~) producers. If (~~an affected~~)
15 a producer disputes the results of a vote, that producer within sixty
16 days from the announced results, shall provide in writing a statement
17 of why the vote is disputed and request a recount. Once the vote is
18 tallied and distributed, all disputes are resolved, and all matters in
19 a vote are finalized, the individual ballots may be destroyed.

20 (5) Before conducting the referendum provided for in subsection (1)
21 of this section, the director may require the petitioners to deposit
22 with him or her an amount of money as the director deems necessary to
23 defray the expenses of conducting the referendum. The director shall
24 provide the petitioners an estimate of expenses that may be incurred to
25 conduct a referendum before any service takes place. Petitioners shall
26 deposit funds with the director to pay for expenses incurred by the
27 department. The commission shall reimburse petitioners the amount paid
28 to the department when funds become available. However, if for any
29 reason the referendum process is discontinued, the petitioners shall
30 reimburse the department for expenses incurred by the department up
31 until the time the process is discontinued.

32 (6) The director is not required to hold a referendum under
33 subsection (1) of this section more than once in any twelve-month
34 period.

35 **Sec. 3.** RCW 15.89.050 and 2006 c 330 s 6 are each amended to read
36 as follows:

37 (1) The director shall appoint the producer members of the

1 commission. In making appointments, no later than ninety days before
2 an expiration of a commission member's term, the director shall call
3 for recommendations for commission member positions, and the director
4 shall take into consideration recommendations made by a statewide
5 Washington state craft brewing trade association or other ((affected))
6 producers. In appointing persons to the commission, the director shall
7 seek a balanced representation on the commission that reflects the
8 composition of the beer producers throughout the state on the basis of
9 beer produced and geographic location. Information on beer production
10 by geographic location shall be provided by the commission upon the
11 director's request.

12 (2) If a position on the commission becomes vacant due to
13 resignation, disqualification, death, or for any other reason, the
14 commission shall notify the director and the unexpired term shall
15 immediately be filled by appointment by the director.

16 (3) Each member or employee of the commission shall be reimbursed
17 for actual travel expenses incurred in carrying out this chapter as
18 defined by the commission in rule. Otherwise if not defined in rule,
19 reimbursement for travel expenses shall be at the rates allowed by RCW
20 43.03.050 and 43.03.060.

21 **Sec. 4.** RCW 15.89.100 and 2006 c 330 s 13 are each amended to read
22 as follows:

23 (1) The commission shall prepare a list of all ((affected))
24 producers from information available from the liquor control board, the
25 department, or the producers' association. This list must contain the
26 names and addresses of ((affected)) producers within this state and the
27 amount, by barrelage, of beer produced during the period designated by
28 the commission. A qualified person may, at any time, have his or her
29 name placed upon the list by delivering or mailing the information to
30 the commission. This list shall be corrected and brought up-to-date in
31 accordance with evidence and information available to the commission by
32 December 31st of each year. For the purposes of giving notice and
33 holding referendums, the list updated before the date for issuing
34 notices or ballots is the list of all producers entitled to notice, to
35 assent or dissent, or to vote. Inadvertent failure to notify a
36 producer does not invalidate a proceeding conducted under this chapter.

1 (2) It is the responsibility of ((affected)) producers to ensure
2 that their correct address is filed with the commission. It is also
3 the responsibility of ((affected)) producers to submit production data
4 to the commission as prescribed by this chapter.

5 (3) The commission shall develop a reporting system to document
6 that the ((affected)) producers in this state are reporting quantities
7 of beer produced and are paying the assessment as provided in RCW
8 15.89.110.

9 **Sec. 5.** RCW 15.89.110 and 2006 c 330 s 14 are each amended to read
10 as follows:

11 (1) Pursuant to referendum in accordance with RCW 15.89.040, there
12 is levied, and the commission shall collect, upon beer produced by ((an
13 affected)) a producer, an annual assessment of ten cents per barrel of
14 beer produced, up to ten thousand barrels per location.

15 (2) The commission shall adopt rules prescribing the time, place,
16 and method for payment and collection of this assessment and provide
17 for the collection of assessments from ((affected)) producers who ship
18 directly out-of-state.

19 (3) The commission may reduce the assessment per ((affected))
20 producer based upon in-kind contributions to the commission.

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