

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1351

63rd Legislature
2013 Regular Session

Passed by the House March 5, 2013
Yeas 96 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 15, 2013
Yeas 48 Nays 0

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 **HOUSE BILL 1351** 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**

HOUSE BILL 1351

Passed Legislature - 2013 Regular Session

State of Washington

63rd Legislature

2013 Regular Session

By Representatives Condotta and Hurst

Read first time 01/24/13. Referred to Committee on Government
Accountability & Oversight.

1 AN ACT Relating to identifying wineries, breweries, and
2 microbreweries on private labels; and reenacting and amending RCW
3 66.28.310.

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

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

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

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

16 (ii) Must bear imprinted advertising matter of the industry member
17 only, except imprinted advertising matter of the industry member can
18 include the logo of a professional sports team which the industry
19 member is licensed to use;

1 (iii) May be provided by industry members only to retailers and
2 their employees and may not be provided by or through retailers or
3 their employees to retail customers; and

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

5 (b) An industry member is not obligated to provide any such branded
6 promotional items, and a retailer may not require an industry member to
7 provide such branded promotional items as a condition for selling any
8 alcohol to the retailer.

9 (c) Any industry member or retailer or any other person asserting
10 that the provision of branded promotional items as allowed in (a) of
11 this subsection has resulted or is more likely than not to result in
12 undue influence or an adverse impact on public health and safety, or is
13 otherwise inconsistent with the criteria in (a) of this subsection may
14 file a complaint with the board. Upon receipt of a complaint the board
15 may conduct such investigation as it deems appropriate in the
16 circumstances. If the investigation reveals the provision of branded
17 promotional items has resulted in or is more likely than not to result
18 in undue influence or has resulted or is more likely than not to result
19 in an adverse impact on public health and safety or is otherwise
20 inconsistent with (a) of this subsection the board may issue an
21 administrative violation notice to the industry member, to the
22 retailer, or both. The recipient of the administrative violation
23 notice may request a hearing under chapter 34.05 RCW.

24 (2) Nothing in RCW 66.28.305 prohibits:

25 (a) An industry member from providing to a special occasion
26 licensee and a special occasion licensee from receiving services for:

27 (i) Installation of draft beer dispensing equipment or advertising;

28 (ii) Advertising, pouring, or dispensing of beer or wine at a beer
29 or wine tasting exhibition or judging event; or

30 (iii) Pouring or dispensing of spirits by a licensed domestic
31 distiller or the accredited representative of a distiller,
32 manufacturer, importer, or distributor of spirituous liquor licensed
33 under RCW 66.24.310; or

34 (b) Special occasion licensees from paying for beer or wine
35 immediately following the end of the special occasion event; or

36 (c) Wineries or breweries that are participating in a special
37 occasion event from paying reasonable booth fees to the special
38 occasion licensee.

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

9 (4) Nothing in RCW 66.28.305 prohibits:

10 (a) Industry members from listing on their internet web sites
11 information related to retailers who sell or promote their products,
12 including direct links to the retailers' internet web sites; and

13 (b) Retailers from listing on their internet web sites information
14 related to industry members whose products those retailers sell or
15 promote, including direct links to the industry members' web sites; or

16 (c) Industry members and retailers from producing, jointly or
17 together with regional, state, or local industry associations,
18 brochures and materials promoting tourism in Washington state which
19 contain information regarding retail licensees, industry members, and
20 their products.

21 (5) Nothing in RCW 66.28.305 prohibits the performance of personal
22 services offered from time to time by a domestic winery or certificate
23 of approval holder to retailers when the personal services are (a)
24 conducted at a licensed premises, and (b) intended to inform, educate,
25 or enhance customers' knowledge or experience of the manufacturer's
26 products. The performance of personal services may include
27 participation and pouring, bottle signing events, and other similar
28 informational or educational activities at the premises of a retailer
29 holding a spirits, beer, and wine restaurant license, a wine and/or
30 beer restaurant license, a specialty wine shop license, a special
31 occasion license, a grocery store license with a tasting endorsement,
32 or a private club license. A domestic winery or certificate of
33 approval holder is not obligated to perform any such personal services,
34 and a retail licensee may not require a domestic winery or certificate
35 of approval holder to conduct any personal service as a condition for
36 selling any alcohol to the retail licensee, or as a condition for
37 including any product of the domestic winery or certificate of approval
38 holder in any tasting conducted by the licensee. Except as provided in

1 RCW 66.28.150, the cost of sampling may not be borne, directly or
2 indirectly, by any domestic winery or certificate of approval holder or
3 any distributor. Nothing in this section prohibits wineries,
4 breweries, microbreweries, certificate of approval holders, and retail
5 licensees from identifying the producers on private labels authorized
6 under RCW 66.24.400, 66.24.425, ((and)) 66.24.450, 66.24.360, and
7 66.24.371.

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

13 (7) Nothing in RCW 66.28.305 prohibits the performance of personal
14 services offered from time to time by a domestic brewery, microbrewery,
15 or beer certificate of approval holder to grocery store licensees with
16 a tasting endorsement when the personal services are (a) conducted at
17 a licensed premises in conjunction with a tasting event, and (b)
18 intended to inform, educate, or enhance customers' knowledge or
19 experience of the manufacturer's products. The performance of personal
20 services may include participation and pouring, bottle signing events,
21 and other similar informational or educational activities. A domestic
22 brewery, microbrewery, or beer certificate of approval holder is not
23 obligated to perform any such personal services, and a grocery store
24 licensee may not require the performance of any personal service as a
25 condition for including any product in any tasting conducted by the
26 licensee.

27 (8) Nothing in RCW 66.28.305 prohibits an arrangement between a
28 domestic winery and a restaurant licensed under RCW 66.24.320 or
29 66.24.400 to waive a corkage fee.

30 (9) Nothing in this section prohibits professional sports teams who
31 hold a retail liquor license or their agents from accepting bona fide
32 liquor advertising from manufacturers, importers, distributors, or
33 their agents for use in the sporting arena. Professional sports teams
34 who hold a retail liquor license or their agents may license the
35 manufacturer, importer, distributor, or their agents to use the name
36 and trademarks of the professional sports team in their advertising and
37 promotions, under the following conditions:

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

4 (b) Such advertising may carry with it no express or implied offer
5 on the part of the manufacturer, importer, distributor, or their agent,
6 or promise on the part of the retail licensee whose operation is
7 directly or indirectly part of the sporting arena, to stock or list any
8 particular brand of liquor to the total or partial exclusion of any
9 other brand.

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