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SENATE BILL 5303

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Harper and Ericksen

Read first time 01/25/13. Referred to Committee on Commerce & Labor.

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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