S-3684.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 6324**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 64th Legislature 2016 Regular Session**

**By** Senators Rivers, Cleveland, Conway, Keiser, Nelson, Schoesler, and Hewitt

AN ACT Relating to authorizing preferential pricing for spirits and wine sold to on-premises licensees; amending RCW 66.28.170; creating a new section; and repealing RCW 66.24.440.

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

NEW SECTION. **Sec.**  (1) In 2011 the voters of the state approved Initiative Measure No. 1183, which terminated the state's operation of the retail sale and distribution of spirits and made other regulatory changes affecting the sale and distribution of spirits and wine by private entities.

(2) The legislature has long recognized that restaurants afford consumers the opportunity to try different wine and spirits products prior to purchasing said products at an authorized retail outlet. In 1949 the legislature enacted RCW 66.24.440, which required state liquor stores to sell spirits to restaurants with at least a fifteen percent discount.

(3) The practice of giving restaurants and other on-premises licensees preferential pricing is referred to as channel pricing and occurs throughout the United States, whether the state is a control state or authorizes private market sales and distribution of spirits and wine.

(4) While Initiative Measure No. 1183 specifically authorized the use of discounts based on the volume of spirits or wine purchased and other efficiencies, such as delivery to a central warehouse, the initiative did not specifically authorize the use of discounts to on-premises licensees based solely on their status; moreover RCW 66.24.440 is no longer applicable because the state no longer operates state-owned liquor stores.

(5) By enacting section 2 of this act the legislature intends to restore the policy of authorizing preferential pricing of spirits and wine sold to on-premises licensees.

**Sec.**  RCW 66.28.170 and 2012 c 2 s 119 are each amended to read as follows:

It is unlawful for a manufacturer of spirits, wine, or malt beverages holding a certificate of approval or the manufacturer's authorized representative, a distillery, brewery, or a domestic winery to discriminate in price in selling to any purchaser for resale in the state of Washington. Offering on-premises retailers different prices or a different pricing structure for wine or spirits than offered to off-premises retailers does not discriminate in price and is lawful, so long as a particular price or pricing structure for wine or spirits offered to one on-premises retailer is made reasonably available to all on-premises retailers and a particular price or pricing structure for wine or spirits offered to one off-premises retailer is made reasonably available to all off-premises retailers. Subject to and in accordance with the foregoing, price differentials for sales of spirits or wine based upon competitive conditions, costs of servicing a purchaser's account, efficiencies in handling goods, or other such bona fide business factors, to the extent the differentials are not unlawful under trade regulation laws applicable to goods of all kinds, do not violate this section.

NEW SECTION. **Sec.**  RCW 66.24.440 (Liquor by the drink, spirits, beer, and wine restaurant, spirits, beer, and wine private club, hotel, spirits, beer, and wine nightclub, sports entertainment facility, and VIP airport lounge license—Purchase of liquor by licensees—Discount) and 2011 c 325 s 3, 2009 c 271 s 8, 2007 c 370 s 20, 1998 c 126 s 8, 1997 c 321 s 29, & 1949 c 5 s 5 are each repealed.

**--- END ---**