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HOUSE BILL 1768

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State of Washington

64th Legislature

2015 Regular Session

By Representatives Kirby, Vick, Reykdal, and Goodman

Read first time 01/28/15. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to providing promotional items to a nonprofit  
2 charitable corporation or association; and amending RCW 66.28.310.

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

4 **Sec. 1.** RCW 66.28.310 and 2014 c 92 s 5 are each amended to read  
5 as follows:

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

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

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

19 (iii) May be provided by industry members only to retailers and  
20 their employees and may not be provided by or through retailers or  
21 their employees to retail customers; and

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

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

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

21 (2) Nothing in RCW 66.28.305 prohibits:

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

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

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

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

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

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

38 (3) Nothing in RCW 66.28.305 prohibits industry members from  
39 performing, and retailers from accepting the service of building,  
40 rotating, and restocking displays and stockroom inventories; rotating

1 and rearranging can and bottle displays of their own products;  
2 providing point of sale material and brand signs; pricing case goods  
3 of their own brands; and performing such similar business services  
4 consistent with board rules, or personal services as described in  
5 subsection (5) of this section.

6 (4) Nothing in RCW 66.28.305 prohibits:

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

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

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

19 (5) Nothing in RCW 66.28.305 prohibits the performance of  
20 personal services offered from time to time by a domestic winery or  
21 certificate of approval holder to retailers when the personal  
22 services are (a) conducted at a licensed premises, and (b) intended  
23 to inform, educate, or enhance customers' knowledge or experience of  
24 the manufacturer's products. The performance of personal services may  
25 include participation and pouring, bottle signing events, and other  
26 similar informational or educational activities at the premises of a  
27 retailer holding a spirits, beer, and wine restaurant license, a wine  
28 and/or beer restaurant license, a specialty wine shop license, a  
29 special occasion license, a grocery store license with a tasting  
30 endorsement, or a private club license. A domestic winery or  
31 certificate of approval holder is not obligated to perform any such  
32 personal services, and a retail licensee may not require a domestic  
33 winery or certificate of approval holder to conduct any personal  
34 service as a condition for selling any alcohol to the retail  
35 licensee, or as a condition for including any product of the domestic  
36 winery or certificate of approval holder in any tasting conducted by  
37 the licensee. Except as provided in RCW 66.28.150, the cost of  
38 sampling may not be borne, directly or indirectly, by any domestic  
39 winery or certificate of approval holder or any distributor. Nothing  
40 in this section prohibits wineries, breweries, microbreweries,

1 certificate of approval holders, and retail licensees from  
2 identifying the producers on private labels authorized under RCW  
3 66.24.400, 66.24.425, 66.24.450, 66.24.360, and 66.24.371.

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

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

23 (8) Nothing in RCW 66.28.305 prohibits an arrangement between a  
24 domestic winery and a restaurant licensed under RCW 66.24.320 or  
25 66.24.400 to waive a corkage fee.

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

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

37 (b) Such advertising may carry with it no express or implied  
38 offer on the part of the manufacturer, importer, distributor, or  
39 their agent, or promise on the part of the retail licensee whose  
40 operation is directly or indirectly part of the sporting arena, to

1 stock or list any particular brand of liquor to the total or partial  
2 exclusion of any other brand.

3 (10) Nothing in RCW 66.28.305 prohibits a licensed domestic  
4 brewery or microbrewery from providing branded promotional items  
5 which are of nominal value, singly or in the aggregate, to a  
6 nonprofit charitable corporation or association exempt from taxation  
7 under 26 U.S.C. Sec. 501(c)(3) of the internal revenue code as it  
8 existed on the effective date of this section for use consistent with  
9 the purpose or purposes entitling it to such exemption.

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