
SUBSTITUTE SENATE BILL 5248

State of Washington

64th Legislature

2015 Regular Session

By Senate Commerce & Labor (originally sponsored by Senators Honeyford, Conway, Rivers, Keiser, Warnick, Kohl-Welles, King, and Braun)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to performance of personal services by liquor
2 industry members to retailers; 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, enhanced
26 packaging promotions, and other similar informational or educational
27 activities at the premises of a retailer holding a spirits, beer, and
28 wine restaurant license, a wine and/or beer restaurant license, a
29 specialty wine shop license, a special occasion license, a grocery
30 store license with a tasting endorsement, or a private club license.
31 A domestic winery or certificate of approval holder is not obligated
32 to perform any such personal services, and a retail licensee may not
33 require a domestic winery or certificate of approval holder to
34 conduct any personal service as a condition for selling any alcohol
35 to the retail licensee, or as a condition for including any product
36 of the domestic winery or certificate of approval holder in any
37 tasting conducted by the licensee. Except as provided in RCW
38 66.28.150, the cost of sampling may not be borne, directly or
39 indirectly, by any domestic winery or certificate of approval holder
40 or any distributor. Nothing in this section prohibits wineries,

1 breweries, microbreweries, certificate of approval holders, and
2 retail licensees from identifying the producers on private labels
3 authorized under RCW 66.24.400, 66.24.425, 66.24.450, 66.24.360, and
4 66.24.371.

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

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

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

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

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

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

7 (10) Nothing in RCW 66.28.305 prohibits the performance of
8 personal services offered from time to time by a distiller, importer,
9 manufacturer of spirits, or spirits importer to retailers when the
10 personal services are (a) conducted at a licensed premises, and (b)
11 intended to inform, educate, or enhance customers' knowledge or
12 experience of the manufacturer's products. The performance of
13 personal services may include participation and pouring, bottle
14 signing events, enhanced packaging promotions, and other similar
15 informational or educational activities at the premises of a grocery
16 store with a spirits retail license and a tasting endorsement or beer
17 and wine specialty shop with a spirits retail license. Any spirit
18 sampling at such an event must be conducted pursuant to RCW
19 66.24.670. A distiller, importer, manufacturer of spirits, or spirits
20 importer is not obligated to perform any such personal services, and
21 a retail licensee may not require a distiller, importer, manufacturer
22 of spirits, or spirits importer to conduct any personal service as a
23 condition for selling any alcohol to the retail licensee, or as a
24 condition for including any product of the distiller, importer,
25 manufacturer of spirits, or spirits importer in any tasting conducted
26 by the licensee. Except as provided in RCW 66.28.150, the cost of
27 sampling may not be borne, directly or indirectly, by any distiller,
28 importer, manufacturer of spirits, or spirits importer. Nothing in
29 this section prohibits a certificate of approval holder, distiller,
30 importer, manufacturer of spirits, or spirits importer from
31 identifying the producers on private labels authorized under RCW
32 66.24.400, 66.24.425, 66.24.450, 66.24.360, and 66.24.371.

33 (11) The personal services provided by an industry member to a
34 retailer under subsection (5), (7), or (10) of this section may be
35 provided by an agent of the industry member.

36 (12) Any enhanced promotional packaging must meet state and
37 federal requirements for labeling, pricing, money's worth under RCW
38 66.28.305, and undue influence under RCW 66.28.310.

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