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SENATE BILL 6011

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State of Washington                      64th Legislature                      2015 Regular Session

By Senators Mullet and Braun

Read first time 02/17/15. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to allowing industry members to provide alcoholic  
2 beverage retailers with credit on alcoholic beverage purchases;  
3 amending RCW 66.28.310; and adding a new section to chapter 66.28  
4 RCW.

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

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

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

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

17            (ii) Must bear imprinted advertising matter of the industry  
18 member only, except imprinted advertising matter of the industry  
19 member can include the logo of a professional sports team which the  
20 industry 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  
6 branded promotional items, and a retailer may not require an industry  
7 member to provide such branded promotional items as a condition for  
8 selling any 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  
13 is otherwise inconsistent with the criteria in (a) of this subsection  
14 may file a complaint with the board. Upon receipt of a complaint the  
15 board 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  
18 result in undue influence or has resulted or is more likely than not  
19 to result in an adverse impact on public health and safety or is  
20 otherwise inconsistent with (a) of this subsection the board may  
21 issue an administrative violation notice to the industry member, to  
22 the 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  
28 advertising;

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

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

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

38 (c) Wineries, breweries, or distilleries that are participating  
39 in a special occasion event from paying reasonable booth fees to the  
40 special 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  
6 of 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  
14 information related to industry members whose products those  
15 retailers sell or promote, including direct links to the industry  
16 members' web sites; or

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

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

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

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

12 (7) Nothing in RCW 66.28.305 prohibits the performance of  
13 personal services offered from time to time by a domestic brewery,  
14 microbrewery, or beer certificate of approval holder to grocery store  
15 licensees with a tasting endorsement when the personal services are  
16 (a) conducted at a licensed premises in conjunction with a tasting  
17 event, and (b) intended to inform, educate, or enhance customers'  
18 knowledge or experience of the manufacturer's products. The  
19 performance of personal services may include participation and  
20 pouring, bottle signing events, and other similar informational or  
21 educational activities. A domestic brewery, microbrewery, or beer  
22 certificate of approval holder is not obligated to perform any such  
23 personal services, and a grocery store licensee may not require the  
24 performance of any personal service as a condition for including any  
25 product in 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 NEW SECTION. **Sec. 2.** A new section is added to chapter 66.28  
8 RCW to be codified between RCW 66.28.280 and 66.28.315 to read as  
9 follows:

10 Nothing in RCW 66.28.305 or this section prohibits an industry  
11 member from providing to a retailer purchase credit, for up to one  
12 month, on liquor purchases from the industry member, with or without  
13 interest. No industry member is required to provide credit to a  
14 retailer under this section.

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