

CERTIFICATION OF ENROLLMENT

SENATE BILL 5662

64th Legislature
2015 Regular Session

Passed by the Senate March 6, 2015
Yeas 44 Nays 5

President of the Senate

Passed by the House April 9, 2015
Yeas 97 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5662** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5662

Passed Legislature - 2015 Regular Session

State of Washington 64th Legislature 2015 Regular Session

By Senators Kohl-Welles, Honeyford, Braun, Mullet, and Rolfes

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

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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