

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1038

65th Legislature
2017 Regular Session

Passed by the House April 17, 2017
Yeas 93 Nays 2

Speaker of the House of Representatives

Passed by the Senate April 11, 2017
Yeas 43 Nays 6

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1038** as passed by House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1038

AS AMENDED BY THE SENATE

Passed Legislature - 2017 Regular Session

State of Washington 65th Legislature 2017 Regular Session

**By House Commerce & Gaming (originally sponsored by Representatives
Condotta, Stanford, Johnson, Vick, Haler, and Sawyer)**

READ FIRST TIME 01/24/17.

1 AN ACT Relating to increasing the number of tasting rooms allowed
2 under a domestic winery license; and amending RCW 66.24.170.

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

4 **Sec. 1.** RCW 66.24.170 and 2016 c 235 s 1 are each amended to
5 read as follows:

6 (1) There is a license for domestic wineries; fee to be computed
7 only on the liters manufactured: Less than two hundred fifty thousand
8 liters per year, one hundred dollars per year; and two hundred fifty
9 thousand liters or more per year, four hundred dollars per year.

10 (2) The license allows for the manufacture of wine in Washington
11 state from grapes or other agricultural products.

12 (3) Any domestic winery licensed under this section may also act
13 as a retailer of wine of its own production. Any domestic winery
14 licensed under this section may act as a distributor of its own
15 production. Notwithstanding any language in this title to the
16 contrary, a domestic winery may use a common carrier to deliver up to
17 one hundred cases of its own production, in the aggregate, per month
18 to licensed Washington retailers. A domestic winery may not arrange
19 for any such common carrier shipments to licensed retailers of wine
20 not of its own production. Except as provided in this section, any
21 winery operating as a distributor and/or retailer under this

1 subsection must comply with the applicable laws and rules relating to
2 distributors and/or retailers, except that a winery operating as a
3 distributor may maintain a warehouse off the premises of the winery
4 for the distribution of wine of its own production provided that: (a)
5 The warehouse has been approved by the board under RCW 66.24.010; and
6 (b) the number of warehouses off the premises of the winery does not
7 exceed one.

8 (4) A domestic winery licensed under this section, at locations
9 separate from any of its production or manufacturing sites, may serve
10 samples of its own products, with or without charge, may sell wine of
11 its own production at retail, and may sell for off-premises
12 consumption wines of its own production in kegs or sanitary
13 containers meeting the applicable requirements of federal law brought
14 to the premises by the purchaser or furnished by the licensee and
15 filled at the tap at the time of sale, provided that: (a) Each
16 additional location has been approved by the board under RCW
17 66.24.010; (b) the total number of additional locations does not
18 exceed (~~two~~) four; (c) a winery may not act as a distributor at any
19 such additional location; and (d) any person selling or serving wine
20 at an additional location for on-premises consumption must obtain a
21 class 12 or class 13 alcohol server permit. Each additional location
22 is deemed to be part of the winery license for the purpose of this
23 title. At additional locations operated by multiple wineries under
24 this section, if the board cannot connect a violation of RCW
25 66.44.200 or 66.44.270 to a single licensee, the board may hold all
26 licensees operating the additional location jointly liable. Nothing
27 in this subsection may be construed to prevent a domestic winery from
28 holding multiple domestic winery licenses.

29 (5)(a) A domestic winery licensed under this section may apply to
30 the board for an endorsement to sell wine of its own production at
31 retail for off-premises consumption at a qualifying farmers market.
32 The annual fee for this endorsement is seventy-five dollars. An
33 endorsement issued pursuant to this subsection does not count toward
34 the (~~two~~) four additional retail locations limit specified in this
35 section.

36 (b) For each month during which a domestic winery will sell wine
37 at a qualifying farmers market, the winery must provide the board or
38 its designee a list of the dates, times, and locations at which
39 bottled wine may be offered for sale. This list must be received by

1 the board before the winery may offer wine for sale at a qualifying
2 farmers market.

3 (c) The wine sold at qualifying farmers markets must be made
4 entirely from grapes grown in a recognized Washington appellation or
5 from other agricultural products grown in this state.

6 (d) Each approved location in a qualifying farmers market is
7 deemed to be part of the winery license for the purpose of this
8 title. The approved locations under an endorsement granted under this
9 subsection include tasting or sampling privileges subject to the
10 conditions pursuant to RCW 66.24.175. The winery may not store wine
11 at a farmers market beyond the hours that the winery offers bottled
12 wine for sale. The winery may not act as a distributor from a farmers
13 market location.

14 (e) Before a winery may sell bottled wine at a qualifying farmers
15 market, the farmers market must apply to the board for authorization
16 for any winery with an endorsement approved under this subsection to
17 sell bottled wine at retail at the farmers market. This application
18 shall include, at a minimum: (i) A map of the farmers market showing
19 all booths, stalls, or other designated locations at which an
20 approved winery may sell bottled wine; and (ii) the name and contact
21 information for the on-site market managers who may be contacted by
22 the board or its designee to verify the locations at which bottled
23 wine may be sold. Before authorizing a qualifying farmers market to
24 allow an approved winery to sell bottled wine at retail at its
25 farmers market location, the board must notify the persons or
26 entities of such application for authorization pursuant to RCW
27 66.24.010 (8) and (9). An authorization granted under this subsection
28 (5)(e) may be withdrawn by the board for any violation of this title
29 or any rules adopted under this title.

30 (f) The board may adopt rules establishing the application and
31 approval process under this section and such additional rules as may
32 be necessary to implement this section.

33 (g) For the purposes of this subsection:

34 (i) "Qualifying farmers market" means an entity that sponsors a
35 regular assembly of vendors at a defined location for the purpose of
36 promoting the sale of agricultural products grown or produced in this
37 state directly to the consumer under conditions that meet the
38 following minimum requirements:

39 (A) There are at least five participating vendors who are farmers
40 selling their own agricultural products;

1 (B) The total combined gross annual sales of vendors who are
2 farmers exceeds the total combined gross annual sales of vendors who
3 are processors or resellers. However, if a farmers market does not
4 satisfy this subsection (5)(g)(i)(B), a farmers market is still
5 considered a "qualifying farmers market" if the total combined gross
6 annual sales of farmers and processors at the farmers market is one
7 million dollars or more;

8 (C) The total combined gross annual sales of vendors who are
9 farmers, processors, or resellers exceeds the total combined gross
10 annual sales of vendors who are not farmers, processors, or
11 resellers;

12 (D) The sale of imported items and secondhand items by any vendor
13 is prohibited; and

14 (E) No vendor is a franchisee.

15 (ii) "Farmer" means a natural person who sells, with or without
16 processing, agricultural products that he or she raises on land he or
17 she owns or leases in this state or in another state's county that
18 borders this state.

19 (iii) "Processor" means a natural person who sells processed food
20 that he or she has personally prepared on land he or she owns or
21 leases in this state or in another state's county that borders this
22 state.

23 (iv) "Reseller" means a natural person who buys agricultural
24 products from a farmer and resells the products directly to the
25 consumer.

26 (6) Wine produced in Washington state by a domestic winery
27 licensee may be shipped out-of-state for the purpose of making it
28 into sparkling wine and then returned to such licensee for resale.
29 Such wine is deemed wine manufactured in the state of Washington for
30 the purposes of RCW 66.24.206, and shall not require a special
31 license.

32 (7) During an event held by a nonprofit holding a special
33 occasion license issued under RCW 66.24.380, a domestic winery
34 licensed under this section may take orders, either in writing or
35 electronically, and accept payment for wines of its own production
36 under the following conditions:

37 (a) Wine produced by the domestic winery may be served for on-
38 premises consumption by the special occasion licensee;

39 (b) The domestic winery delivers wine to the consumer on a date
40 after the conclusion of the special occasion event;

1 (c) The domestic winery delivers wine to the consumer at a
2 location different from the location at which the special occasion
3 event is held;

4 (d) The domestic winery complies with all requirements in chapter
5 66.20 RCW for direct sale of wine to consumers;

6 (e) The wine is not sold for resale; and

7 (f) The domestic winery is entitled to all proceeds from the sale
8 and delivery of its wine to a consumer after the conclusion of the
9 special occasion event, but may enter into an agreement to share a
10 portion of the proceeds of these sales with the special occasion
11 licensee licensed under RCW 66.24.380.

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