
SUBSTITUTE SENATE BILL 5589

State of Washington

65th Legislature

2017 Regular Session

By Senate Commerce, Labor & Sports (originally sponsored by Senators Keiser and Baumgartner)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to distillery promotional items and spirit sample
2 sales; and amending RCW 66.24.140 and 66.28.310.

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

4 **Sec. 1.** RCW 66.24.140 and 2015 c 194 s 1 are each amended to
5 read as follows:

6 (1) There is a license to distillers, including blending,
7 rectifying, and bottling; fee two thousand dollars per annum, unless
8 provided otherwise as follows:

9 (a) For distillers producing one hundred fifty thousand gallons
10 or less of spirits with at least half of the raw materials used in
11 the production grown in Washington, the license fee must be reduced
12 to one hundred dollars per annum;

13 (b) The board must license stills used and to be used solely and
14 only by a commercial chemist for laboratory purposes, and not for the
15 manufacture of liquor for sale, at a fee of twenty dollars per annum;

16 (c) The board must license stills used and to be used solely and
17 only for laboratory purposes in any school, college, or educational
18 institution in the state, without fee; and

19 (d) The board must license stills that have been duly licensed as
20 fruit and/or wine distilleries by the federal government, used and to
21 be used solely as fruit and/or wine distilleries in the production of

1 fruit brandy and wine spirits, at a fee of two hundred dollars per
2 annum.

3 (2) Any distillery licensed under this section may:

4 (a) Sell spirits of its own production for consumption off the
5 premises. A distillery selling spirits under this subsection must
6 comply with the applicable laws and rules relating to retailers;

7 (b) Contract distilled spirits for, and sell contract distilled
8 spirits to, holders of distillers' or manufacturers' licenses,
9 including licenses issued under RCW 66.24.520, or for export; and

10 (c) Provide samples subject to the following conditions:

11 (i) For the purposes of this subsection, the maximum amount of
12 alcohol per person per day is two ounces;

13 (ii) Provide free or for a charge one-half ounce or less samples
14 of spirits of its own production to persons on the premises of the
15 distillery. ((The maximum total per person per day is two ounces.
16 Every person who participates in any manner in the service of samples
17 must obtain a class 12 alcohol server permit.)) Spirits samples may
18 be adulterated with nonalcoholic mixers, mixers with alcohol of the
19 distiller's own production, water, and/or ice;

20 (iii) Sell adulterated samples of spirits of their own
21 production, water, and/or ice of spirits of its own production to
22 persons on the premises at the distillery; and

23 (iv) Every person who participates in any manner in the service
24 of these samples must obtain a class 12 alcohol server permit.

25 **Sec. 2.** RCW 66.28.310 and 2015 c 94 s 1 are each amended to read
26 as follows:

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

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

36 (ii) Must bear imprinted advertising matter of the industry
37 member only, except imprinted advertising matter of the industry
38 member can include the logo of a professional sports team which the
39 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 distilleries, craft distilleries, certificate of approval holders,
5 and retail licensees from identifying the producers on private labels
6 authorized under RCW 66.24.400, 66.24.425, 66.24.450, 66.24.360, and
7 66.24.371.

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

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

27 (8) Nothing in RCW 66.28.305 prohibits an arrangement between a
28 domestic winery and a restaurant licensed under RCW 66.24.320 or
29 66.24.400 to waive a corkage fee.

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

38 (a) Such advertising must be paid for by said manufacturer,
39 importer, distributor, or their agent at the published advertising
40 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 a licensed domestic
8 brewery or microbrewery from providing branded promotional items
9 which are of nominal value, singly or in the aggregate, to a
10 nonprofit charitable corporation or association exempt from taxation
11 under 26 U.S.C. Sec. 501(c)(3) of the internal revenue code as it
12 existed on July 24, 2015, for use consistent with the purpose or
13 purposes entitling it to such exemption.

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