

SSB 6531 - H COMM AMD

By Committee on Commerce & Gaming

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 66.28
4 RCW to read as follows:

5 The legislature finds that synchronizing the statutory provisions
6 for consumer tastings among beer, wine, and spirits supports fair and
7 equitable marketing practices. It is the intent of the legislature
8 that consumer tastings opportunities be conducted in a fashion that
9 is mindful and respectful to restaurant patrons who do not consume
10 alcohol.

11 **Sec. 2.** RCW 66.28.310 and 2019 c 149 s 1 are each amended to
12 read as follows:

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

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

22 (ii) Must bear imprinted advertising matter of the industry
23 member only, except imprinted advertising matter of the industry
24 member can include the logo of a professional sports team which the
25 industry member is licensed to use;

26 (iii) May be provided by industry members only to retailers and
27 their employees and may not be provided by or through retailers or
28 their employees to retail customers; and

29 (iv) May not be targeted to or appeal principally to youth.

30 (b) An industry member is not obligated to provide any such
31 branded promotional items, and a retailer may not require an industry

1 member to provide such branded promotional items as a condition for
2 selling any alcohol to the retailer.

3 (c) Any industry member or retailer or any other person asserting
4 that the provision of branded promotional items as allowed in (a) of
5 this subsection has resulted or is more likely than not to result in
6 undue influence or an adverse impact on public health and safety, or
7 is otherwise inconsistent with the criteria in (a) of this subsection
8 may file a complaint with the board. Upon receipt of a complaint the
9 board may conduct such investigation as it deems appropriate in the
10 circumstances. If the investigation reveals the provision of branded
11 promotional items has resulted in or is more likely than not to
12 result in undue influence or has resulted or is more likely than not
13 to result in an adverse impact on public health and safety or is
14 otherwise inconsistent with (a) of this subsection the board may
15 issue an administrative violation notice to the industry member, to
16 the retailer, or both. The recipient of the administrative violation
17 notice may request a hearing under chapter 34.05 RCW.

18 (2) Nothing in RCW 66.28.305 prohibits:

19 (a) An industry member from providing to a special occasion
20 licensee and a special occasion licensee from receiving services for:

21 (i) Installation of draft beer dispensing equipment or
22 advertising;

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

25 (iii) Pouring or dispensing of spirits by a licensed domestic
26 distiller or the accredited representative of a distiller,
27 manufacturer, importer, or distributor of spirituous liquor licensed
28 under RCW 66.24.310; or

29 (b) Special occasion licensees from paying for beer, wine, or
30 spirits immediately following the end of the special occasion event;
31 or

32 (c) Wineries, breweries, or distilleries that are participating
33 in a special occasion event from paying reasonable booth fees to the
34 special occasion licensee.

35 (3) Nothing in RCW 66.28.305 prohibits industry members from
36 performing, and retailers from accepting the service of building,
37 rotating, and restocking displays and stockroom inventories; rotating
38 and rearranging can and bottle displays of their own products;
39 providing point of sale material and brand signs; pricing case goods
40 of their own brands; and performing such similar business services

1 consistent with board rules, or personal services as described in
2 subsection (5) of this section.

3 (4) Nothing in RCW 66.28.305 prohibits:

4 (a) Industry members from listing on their internet web sites
5 information related to retailers who sell or promote their products,
6 including direct links to the retailers' internet web sites;

7 (b) Retailers from listing on their internet web sites
8 information related to industry members whose products those
9 retailers sell or promote, including direct links to the industry
10 members' web sites;

11 (c) Manufacturers, distributors, or their licensed
12 representatives from using web sites or social media accounts in
13 their name to post, repost, or share promotional information or
14 images about events featuring a product of the manufacturer's own
15 production or a product sold by the distributor, held at an on-
16 premises licensed liquor retailer's location or a licensed special
17 occasion event. The promotional information may include links to
18 purchase event tickets. Manufacturers, distributors, or their
19 licensed representatives may not pay a third party to enhance
20 viewership of a specific post. Industry members, or their licensed
21 representatives, are not obligated to post, repost, or share
22 information or images on a web site or on social media. A licensed
23 liquor retailer may not require an industry member or their licensed
24 representative to post, repost, or share information or images on a
25 web site or on social media as a condition for selling any alcohol to
26 the retailer or participating in a retailer's event; or

27 (d) Industry members and retailers from producing, jointly or
28 together with regional, state, or local industry associations,
29 brochures and materials promoting tourism in Washington state which
30 contain information regarding retail licensees, industry members, and
31 their products.

32 (5) Nothing in RCW 66.28.305 prohibits the performance of
33 personal services offered from time to time by a domestic winery or
34 certificate of approval holder to retailers when the personal
35 services are (a) conducted at a licensed premises, and (b) intended
36 to inform, educate, or enhance customers' knowledge or experience of
37 the manufacturer's products. The performance of personal services may
38 include participation and pouring, bottle signing events, and other
39 similar informational or educational activities at the premises of a
40 retailer holding a spirits, beer, and wine restaurant license, a wine

1 and/or beer restaurant license, a specialty wine shop license, a
2 special occasion license, a grocery store license with a tasting
3 endorsement, or a private club license. A domestic winery or
4 certificate of approval holder is not obligated to perform any such
5 personal services, and a retail licensee may not require a domestic
6 winery or certificate of approval holder to conduct any personal
7 service as a condition for selling any alcohol to the retail
8 licensee, or as a condition for including any product of the domestic
9 winery or certificate of approval holder in any tasting conducted by
10 the licensee. Except as provided in RCW 66.28.150, the cost of
11 sampling may not be borne, directly or indirectly, by any domestic
12 winery or certificate of approval holder or any distributor. Nothing
13 in this section prohibits wineries, breweries, microbreweries,
14 certificate of approval holders, and retail licensees from
15 identifying the producers on private labels authorized under RCW
16 66.24.400, 66.24.425, 66.24.450, 66.24.360, and 66.24.371.

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

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

36 (8) Nothing in RCW 66.28.305 prohibits the performance of
37 personal services offered from time to time by a craft distillery,
38 distiller, or spirits certificate of approval holder to retailers
39 when the personal services are: (a) Conducted at a licensed premises,
40 and (b) intended to inform, educate, or enhance customers' knowledge

1 or experience of the manufacturer's products. The performance of
2 personal services may include participation and pouring, bottle
3 signing events, and other similar informational or educational
4 activities at the premises of a restaurant holding a spirits, beer,
5 and wine license, at the premises of a special occasion licensed
6 event, or at the premises of a private club licensee. A craft
7 distillery, distiller, or spirits certificate of approval holder is
8 not obligated to perform any such personal services, and a retail
9 licensee may not require a craft distillery, distiller, or spirits
10 certificate of approval holder to conduct any personal service as a
11 condition for selling any alcohol to the retail licensee, or as a
12 condition for including any product of the craft distillery,
13 distiller, or spirits certificate of approval holder in any tasting
14 conducted by the licensee. Except as provided in RCW 66.28.150, the
15 cost of sampling may not be borne, directly or indirectly, by any
16 craft distillery, distiller, or spirits certificate of approval
17 holder. The instruction of consumers may include the furnishing of
18 not more than three tastings to any individual in one day. A single
19 tasting of distilled spirits may not exceed one-half ounce. If
20 tastings of spirits authorized under this subsection (8) occur at a
21 spirits, beer, and wine restaurant, then tastings of spirits may be
22 offered only to consumers who first express an interest in consuming
23 an alcoholic beverage before being offered the tasting of spirits. A
24 distiller, a craft distillery, and a spirits certificate of approval
25 holder must train its employees and any other person responsible for
26 offering tastings to consumers as authorized under this subsection
27 (8) on the requirement that consumers must express an interest in
28 consuming an alcoholic beverage before being offered a tasting of
29 spirits.

30 (9) Nothing in RCW 66.28.305 prohibits an arrangement between a
31 domestic winery and a restaurant licensed under RCW 66.24.320 or
32 66.24.400 to waive a corkage fee.

33 ((+9)) (10) Nothing in this section prohibits professional
34 sports teams who hold a retail liquor license or their agents from
35 accepting bona fide liquor advertising from manufacturers, importers,
36 distributors, or their agents for use in the sporting arena.
37 Professional sports teams who hold a retail liquor license or their
38 agents may license the manufacturer, importer, distributor, or their
39 agents to use the name and trademarks of the professional sports team
40 in their advertising and promotions, under the following conditions:

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

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

10 (~~(10)~~) (11) Nothing in RCW 66.28.305 prohibits a licensed
11 domestic brewery or microbrewery from providing branded promotional
12 items which are of nominal value, singly or in the aggregate, to a
13 nonprofit charitable corporation or association exempt from taxation
14 under 26 U.S.C. Sec. 501(c)(3) of the internal revenue code as it
15 existed on July 24, 2015, for use consistent with the purpose or
16 purposes entitling it to such exemption."

17 Correct the title.

EFFECT: (1) Adds an intent section regarding consumer tastings of liquor.

(2) Clarifies which retail licensees may receive personal services from distilleries, craft distilleries, and spirits certificate of approval holders by providing that the newly authorized personal services may be provided at the premises of a restaurant holding a spirits, beer, and wine license, at the premises of a special occasion licensed event, or at the premises of a private club licensee.

(3) Provides that the cost of sampling spirits conducted pursuant to the new authorization may not be borne, directly or indirectly, by a craft distillery, distillery, or spirits certificate of approval holder. Also provides that this added requirement about sampling costs does not limit a separate existing authorization for distilleries and spirits certificate of approval holders to, without charge, instruct licensees and employees, including chefs, on the subject of spiritous liquor, and to furnish spirits to the licensee and employees as a part of the instruction.

(4) Adds a requirement that a consumer must have first expressed an interest in consuming an alcoholic beverage before the consumer may be offered a tasting of spirits through the new authorization when the tasting occurs at a spirits, beer, and wine restaurant. Requires distilleries, craft distilleries, and spirits certificate of approval holders to train their employees and others who conduct personal services that include tastings about this additional requirement.

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