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**SUBSTITUTE HOUSE BILL 1416**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House Commerce & Gaming (originally sponsored by Representatives Stanford, Jenkin, Fey, Vick, Stonier, and Eslick)

READ FIRST TIME 02/06/19.

1 AN ACT Relating to liquor licensees' promotion of retailers'  
2 events, including licensed events and other events and activities at  
3 retail locations; and amending RCW 66.28.310.

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

5 **Sec. 1.** RCW 66.28.310 and 2015 c 94 s 1 are each amended to read  
6 as follows:

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

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

16 (ii) Must bear imprinted advertising matter of the industry  
17 member only, except imprinted advertising matter of the industry  
18 member can include the logo of a professional sports team which the  
19 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) Manufacturers, distributors, or their licensed  
18 representatives from using web sites or social media accounts in  
19 their name to post, repost, or share promotional information or  
20 images about events featuring a product of the manufacturer's own  
21 production or a product sold by the distributor, held at an on-  
22 premises licensed liquor retailer's location or a licensed special  
23 occasion event. The promotional information may include links to  
24 purchase event tickets. Manufacturers, distributors, or their  
25 licensed representatives may not pay a third party to enhance  
26 viewership of a specific post. Industry members, or their licensed  
27 representatives, are not obligated to post, repost, or share  
28 information or images on a web site or on social media. A licensed  
29 liquor retailer may not require an industry member or their licensed  
30 representative to post, repost, or share information or images on a  
31 web site or on social media as a condition for selling any alcohol to  
32 the retailer or participating in a retailer's event; or

33 (d) Industry members and retailers from producing, jointly or  
34 together with regional, state, or local industry associations,  
35 brochures and materials promoting tourism in Washington state which  
36 contain information regarding retail licensees, industry members, and  
37 their products.

38 (5) Nothing in RCW 66.28.305 prohibits the performance of  
39 personal services offered from time to time by a domestic winery or  
40 certificate of approval holder to retailers when the personal

1 services are (a) conducted at a licensed premises, and (b) intended  
2 to inform, educate, or enhance customers' knowledge or experience of  
3 the manufacturer's products. The performance of personal services may  
4 include participation and pouring, bottle signing events, and other  
5 similar informational or educational activities at the premises of a  
6 retailer holding a spirits, beer, and wine restaurant license, a wine  
7 and/or beer restaurant license, a specialty wine shop license, a  
8 special occasion license, a grocery store license with a tasting  
9 endorsement, or a private club license. A domestic winery or  
10 certificate of approval holder is not obligated to perform any such  
11 personal services, and a retail licensee may not require a domestic  
12 winery or certificate of approval holder to conduct any personal  
13 service as a condition for selling any alcohol to the retail  
14 licensee, or as a condition for including any product of the domestic  
15 winery or certificate of approval holder in any tasting conducted by  
16 the licensee. Except as provided in RCW 66.28.150, the cost of  
17 sampling may not be borne, directly or indirectly, by any domestic  
18 winery or certificate of approval holder or any distributor. Nothing  
19 in this section prohibits wineries, breweries, microbreweries,  
20 certificate of approval holders, and retail licensees from  
21 identifying the producers on private labels authorized under RCW  
22 66.24.400, 66.24.425, 66.24.450, 66.24.360, and 66.24.371.

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

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

1 performance of any personal service as a condition for including any  
2 product in any tasting conducted by the licensee.

3 (8) Nothing in RCW 66.28.305 prohibits an arrangement between a  
4 domestic winery and a restaurant licensed under RCW 66.24.320 or  
5 66.24.400 to waive a corkage fee.

6 (9) Nothing in this section prohibits professional sports teams  
7 who hold a retail liquor license or their agents from accepting bona  
8 fide liquor advertising from manufacturers, importers, distributors,  
9 or their agents for use in the sporting arena. Professional sports  
10 teams who hold a retail liquor license or their agents may license  
11 the manufacturer, importer, distributor, or their agents to use the  
12 name and trademarks of the professional sports team in their  
13 advertising and promotions, under the following conditions:

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

17 (b) Such advertising may carry with it no express or implied  
18 offer on the part of the manufacturer, importer, distributor, or  
19 their agent, or promise on the part of the retail licensee whose  
20 operation is directly or indirectly part of the sporting arena, to  
21 stock or list any particular brand of liquor to the total or partial  
22 exclusion of any other brand.

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

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