
HOUSE BILL 1416

State of Washington

66th Legislature

2019 Regular Session

By Representatives Stanford, Jenkin, Fey, Vick, Stonier, and Eslick

Read first time 01/22/19. Referred to Committee on Commerce & Gaming.

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) Industry members from posting, reposting, or sharing on web
18 sites and social media accounts owned by an industry member or its
19 authorized representative, information and images, including links to
20 purchase event tickets, related to events or activities at a
21 retailer's location or licensed special occasion event. Industry
22 members may not pay for posts or the sharing of information or images
23 related to events or activities at a retailer's location or at
24 licensed special occasion events. Industry members are not obligated
25 to provide social media posts or to share information or images
26 related to an event or activity and a retailer may not require an
27 industry member to provide social media posts or to share information
28 or images as a condition of participating in a retailer's event or
29 activity; or

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

35 (5) Nothing in RCW 66.28.305 prohibits the performance of
36 personal services offered from time to time by a domestic winery or
37 certificate of approval holder to retailers when the personal
38 services are (a) conducted at a licensed premises, and (b) intended
39 to inform, educate, or enhance customers' knowledge or experience of
40 the manufacturer's products. The performance of personal services may

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

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

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

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

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

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

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

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

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