
HOUSE BILL 1047

State of Washington 60th Legislature 2007 Regular Session

By Representatives Williams and Blake

Prefiled 1/3/2007. Read first time 01/08/2007. Referred to
Committee on Commerce & Labor.

1 AN ACT Relating to alcohol content in food products and
2 confections; amending RCW 66.12.160 and 69.04.240; and reenacting and
3 amending RCW 66.04.010.

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

5 **Sec. 1.** RCW 66.04.010 and 2006 c 225 s 1 and 2006 c 101 s 1 are
6 each reenacted and amended to read as follows:

7 In this title, unless the context otherwise requires:

8 (1) "Alcohol" is that substance known as ethyl alcohol, hydrated
9 oxide of ethyl, or spirit of wine, which is commonly produced by the
10 fermentation or distillation of grain, starch, molasses, or sugar, or
11 other substances including all dilutions and mixtures of this
12 substance. The term "alcohol" does not include alcohol in the
13 possession of a manufacturer or distiller of alcohol fuel, as described
14 in RCW 66.12.130, which is intended to be denatured and used as a fuel
15 for use in motor vehicles, farm implements, and machines or implements
16 of husbandry.

17 (2) "Authorized representative" means a person who:

18 (a) Is required to have a federal basic permit issued pursuant to
19 the federal alcohol administration act, 27 U.S.C. Sec. 204;

1 (b) Has its business located in the United States outside of the
2 state of Washington;

3 (c) Acquires ownership of beer or wine for transportation into and
4 resale in the state of Washington; and which beer or wine is produced
5 anywhere outside Washington by a brewery or winery which does not hold
6 a certificate of approval issued by the board; and

7 (d) Is appointed by the brewery or winery referenced in (c) of this
8 subsection as its exclusive authorized representative for marketing and
9 selling its products within the United States in accordance with a
10 written agreement between the authorized representative and such
11 brewery or winery pursuant to this title. The board may waive the
12 requirement for the written agreement of exclusivity in situations
13 consistent with the normal marketing practices of certain products,
14 such as classified growths.

15 (3) "Beer" means any malt beverage, flavored malt beverage, or malt
16 liquor as these terms are defined in this chapter.

17 (4) "Beer distributor" means a person who buys beer from a domestic
18 brewery, microbrewery, beer certificate of approval holder, or beer
19 importers, or who acquires foreign produced beer from a source outside
20 of the United States, for the purpose of selling the same pursuant to
21 this title, or who represents such brewer or brewery as agent.

22 (5) "Beer importer" means a person or business within Washington
23 who purchases beer from a beer certificate of approval holder or who
24 acquires foreign produced beer from a source outside of the United
25 States for the purpose of selling the same pursuant to this title.

26 (6) "Brewer" or "brewery" means any person engaged in the business
27 of manufacturing beer and malt liquor. Brewer includes a brand owner
28 of malt beverages who holds a brewer's notice with the federal bureau
29 of alcohol, tobacco, and firearms at a location outside the state and
30 whose malt beverage is contract-produced by a licensed in-state
31 brewery, and who may exercise within the state, under a domestic
32 brewery license, only the privileges of storing, selling to licensed
33 beer distributors, and exporting beer from the state.

34 (7) "Board" means the liquor control board, constituted under this
35 title.

36 (8) "Club" means an organization of persons, incorporated or
37 unincorporated, operated solely for fraternal, benevolent, educational,
38 athletic or social purposes, and not for pecuniary gain.

1 (9) "Consume" includes the putting of liquor to any use, whether by
2 drinking or otherwise.

3 (10) "Contract liquor store" means a business that sells liquor on
4 behalf of the board through a contract with a contract liquor store
5 manager.

6 (11) "Dentist" means a practitioner of dentistry duly and regularly
7 licensed and engaged in the practice of his profession within the state
8 pursuant to chapter 18.32 RCW.

9 (12) "Distiller" means a person engaged in the business of
10 distilling spirits.

11 (13) "Domestic brewery" means a place where beer and malt liquor
12 are manufactured or produced by a brewer within the state.

13 (14) "Domestic winery" means a place where wines are manufactured
14 or produced within the state of Washington.

15 (15) "Druggist" means any person who holds a valid certificate and
16 is a registered pharmacist and is duly and regularly engaged in
17 carrying on the business of pharmaceutical chemistry pursuant to
18 chapter 18.64 RCW.

19 (16) "Drug store" means a place whose principal business is, the
20 sale of drugs, medicines and pharmaceutical preparations and maintains
21 a regular prescription department and employs a registered pharmacist
22 during all hours the drug store is open.

23 (17) "Employee" means any person employed by the board.

24 (18) "Flavored malt beverage" means:

25 (a) A malt beverage containing six percent or less alcohol by
26 volume to which flavoring or other added nonbeverage ingredients are
27 added that contain distilled spirits of not more than forty-nine
28 percent of the beverage's overall alcohol content; or

29 (b) A malt beverage containing more than six percent alcohol by
30 volume to which flavoring or other added nonbeverage ingredients are
31 added that contain distilled spirits of not more than one and one-half
32 percent of the beverage's overall alcohol content.

33 (19) "Fund" means 'liquor revolving fund.'

34 (20) "Hotel" means every building or other structure kept, used,
35 maintained, advertised or held out to the public to be a place where
36 food is served and sleeping accommodations are offered for pay to
37 transient guests, in which twenty or more rooms are used for the
38 sleeping accommodation of such transient guests and having one or more

1 dining rooms where meals are served to such transient guests, such
2 sleeping accommodations and dining rooms being conducted in the same
3 building and buildings, in connection therewith, and such structure or
4 structures being provided, in the judgment of the board, with adequate
5 and sanitary kitchen and dining room equipment and capacity, for
6 preparing, cooking and serving suitable food for its guests: PROVIDED
7 FURTHER, That in cities and towns of less than five thousand
8 population, the board shall have authority to waive the provisions
9 requiring twenty or more rooms.

10 (21) "Importer" means a person who buys distilled spirits from a
11 distillery outside the state of Washington and imports such spirituous
12 liquor into the state for sale to the board or for export.

13 (22) "Imprisonment" means confinement in the county jail.

14 (23) "Liquor" includes the four varieties of liquor herein defined
15 (alcohol, spirits, wine and beer), and all fermented, spirituous,
16 vinous, or malt liquor, or combinations thereof, and mixed liquor, a
17 part of which is fermented, spirituous, vinous or malt liquor, or
18 otherwise intoxicating; and every liquid or solid or semisolid or other
19 substance, patented or not, containing alcohol, spirits, wine or beer,
20 and all drinks or drinkable liquids and all preparations or mixtures
21 capable of human consumption, and any liquid, semisolid, solid, or
22 other substance, which contains more than one percent of alcohol by
23 weight shall be conclusively deemed to be intoxicating. Liquor does
24 not include confections or food products that contain (~~one~~) ten
25 percent or less of alcohol by weight.

26 (24) "Manufacturer" means a person engaged in the preparation of
27 liquor for sale, in any form whatsoever.

28 (25) "Malt beverage" or "malt liquor" means any beverage such as
29 beer, ale, lager beer, stout, and porter obtained by the alcoholic
30 fermentation of an infusion or decoction of pure hops, or pure extract
31 of hops and pure barley malt or other wholesome grain or cereal in pure
32 water containing not more than eight percent of alcohol by weight, and
33 not less than one-half of one percent of alcohol by volume. For the
34 purposes of this title, any such beverage containing more than eight
35 percent of alcohol by weight shall be referred to as "strong beer."

36 (26) "Package" means any container or receptacle used for holding
37 liquor.

1 (27) "Passenger vessel" means any boat, ship, vessel, barge, or
2 other floating craft of any kind carrying passengers for compensation.

3 (28) "Permit" means a permit for the purchase of liquor under this
4 title.

5 (29) "Person" means an individual, copartnership, association, or
6 corporation.

7 (30) "Physician" means a medical practitioner duly and regularly
8 licensed and engaged in the practice of his profession within the state
9 pursuant to chapter 18.71 RCW.

10 (31) "Prescription" means a memorandum signed by a physician and
11 given by him to a patient for the obtaining of liquor pursuant to this
12 title for medicinal purposes.

13 (32) "Public place" includes streets and alleys of incorporated
14 cities and towns; state or county or township highways or roads;
15 buildings and grounds used for school purposes; public dance halls and
16 grounds adjacent thereto; those parts of establishments where beer may
17 be sold under this title, soft drink establishments, public buildings,
18 public meeting halls, lobbies, halls and dining rooms of hotels,
19 restaurants, theatres, stores, garages and filling stations which are
20 open to and are generally used by the public and to which the public is
21 permitted to have unrestricted access; railroad trains, stages, and
22 other public conveyances of all kinds and character, and the depots and
23 waiting rooms used in conjunction therewith which are open to
24 unrestricted use and access by the public; publicly owned bathing
25 beaches, parks, and/or playgrounds; and all other places of like or
26 similar nature to which the general public has unrestricted right of
27 access, and which are generally used by the public.

28 (33) "Regulations" means regulations made by the board under the
29 powers conferred by this title.

30 (34) "Restaurant" means any establishment provided with special
31 space and accommodations where, in consideration of payment, food,
32 without lodgings, is habitually furnished to the public, not including
33 drug stores and soda fountains.

34 (35) "Sale" and "sell" include exchange, barter, and traffic; and
35 also include the selling or supplying or distributing, by any means
36 whatsoever, of liquor, or of any liquid known or described as beer or
37 by any name whatever commonly used to describe malt or brewed liquor or
38 of wine, by any person to any person; and also include a sale or

1 selling within the state to a foreign consignee or his agent in the
2 state. "Sale" and "sell" shall not include the giving, at no charge,
3 of a reasonable amount of liquor by a person not licensed by the board
4 to a person not licensed by the board, for personal use only. "Sale"
5 and "sell" also does not include a raffle authorized under RCW
6 9.46.0315: PROVIDED, That the nonprofit organization conducting the
7 raffle has obtained the appropriate permit from the board.

8 (36) "Soda fountain" means a place especially equipped with
9 apparatus for the purpose of dispensing soft drinks, whether mixed or
10 otherwise.

11 (37) "Spirits" means any beverage which contains alcohol obtained
12 by distillation, except flavored malt beverages, but including wines
13 exceeding twenty-four percent of alcohol by volume.

14 (38) "Store" means a state liquor store established under this
15 title.

16 (39) "Tavern" means any establishment with special space and
17 accommodation for sale by the glass and for consumption on the
18 premises, of beer, as herein defined.

19 (40) "Winery" means a business conducted by any person for the
20 manufacture of wine for sale, other than a domestic winery.

21 (41)(a) "Wine" means any alcoholic beverage obtained by
22 fermentation of fruits (grapes, berries, apples, et cetera) or other
23 agricultural product containing sugar, to which any saccharine
24 substances may have been added before, during or after fermentation,
25 and containing not more than twenty-four percent of alcohol by volume,
26 including sweet wines fortified with wine spirits, such as port,
27 sherry, muscatel and angelica, not exceeding twenty-four percent of
28 alcohol by volume and not less than one-half of one percent of alcohol
29 by volume. For purposes of this title, any beverage containing no more
30 than fourteen percent of alcohol by volume when bottled or packaged by
31 the manufacturer shall be referred to as "table wine," and any beverage
32 containing alcohol in an amount more than fourteen percent by volume
33 when bottled or packaged by the manufacturer shall be referred to as
34 "fortified wine." However, "fortified wine" shall not include: (i)
35 Wines that are both sealed or capped by cork closure and aged two years
36 or more; and (ii) wines that contain more than fourteen percent alcohol
37 by volume solely as a result of the natural fermentation process and

1 that have not been produced with the addition of wine spirits, brandy,
2 or alcohol.

3 (b) This subsection shall not be interpreted to require that any
4 wine be labeled with the designation "table wine" or "fortified wine."

5 (42) "Wine distributor" means a person who buys wine from a
6 domestic winery, wine certificate of approval holder, or wine importer,
7 or who acquires foreign produced wine from a source outside of the
8 United States, for the purpose of selling the same not in violation of
9 this title, or who represents such vintner or winery as agent.

10 (43) "Wine importer" means a person or business within Washington
11 who purchases wine from a wine certificate of approval holder or who
12 acquires foreign produced wine from a source outside of the United
13 States for the purpose of selling the same pursuant to this title.

14 **Sec. 2.** RCW 66.12.160 and 1984 c 78 s 3 are each amended to read
15 as follows:

16 Nothing in this title shall apply to or prevent the manufacture or
17 sale of confections or food products containing alcohol or liquor if:

18 (1)(a) The confection or food product does not contain more than
19 one percent of alcohol by weight; and ((+2)) (b) the confection or
20 food product has a label stating: "This product contains liquor and
21 the alcohol content is one percent or less of the weight of the
22 product((-))"; or

23 (2)(a) The confection or food product contains more than one
24 percent but not more than ten percent of alcohol by weight; and (b) the
25 confection or food product is sold only to persons at least twenty-one
26 years of age; and (c) the confection or food product has a label
27 stating: "This product contains liquor and the sale to persons under
28 twenty-one years of age is unlawful."

29 Manufacturers of confections or food products are not required to
30 obtain a license under this title.

31 **Sec. 3.** RCW 69.04.240 and 1984 c 78 s 2 are each amended to read
32 as follows:

33 A food shall be deemed to be adulterated if it is confectionery and
34 it bears or contains any alcohol from natural or artificial alcohol
35 flavoring in excess of ((one)) ten percent of the weight of the
36 confection or any nonnutritive article or substance except harmless

1 coloring, harmless flavoring, harmless resinous glaze not in excess of
2 four-tenths of one percent, natural gum, and pectin: PROVIDED, That
3 this section shall not apply to any chewing gum by reason of its
4 containing harmless nonnutritive masticatory substances.

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