

SSB 5834 - H AMD 538

By Representative Conway

ADOPTED 04/09/2009

1 On page 1, after line 5, insert the following:

2 "Sec. 1. RCW 66.04.010 and 2008 c 94 s 4 are each amended to read  
3 as follows:

4 In this title, unless the context otherwise requires:

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

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

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

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

19 (c) Acquires ownership of beer or wine for transportation into and  
20 resale in the state of Washington; and which beer or wine is produced  
21 ~~((anywhere))~~ by a brewery or winery in the United States outside of the  
22 state of Washington ~~((by a brewery or winery which does not hold a~~  
23 ~~certificate of approval issued by the board)); and~~

24 (d) Is appointed by the brewery or winery referenced in (c) of this  
25 subsection as its ~~((exclusive))~~ authorized representative for marketing  
26 and selling its products within the United States in accordance with a  
27 written agreement between the authorized representative and such  
28 brewery or winery pursuant to this title. ~~((The board may waive the~~  
29 ~~requirement for the written agreement of exclusivity in situations~~

1 ~~consistent with the normal marketing practices of certain products,~~  
2 ~~such as classified growths.))~~

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

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

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

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

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

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

27 (9) "Confection" means a preparation of sugar, honey, or other  
28 natural or artificial sweeteners in combination with chocolate, fruits,  
29 nuts, dairy products, or flavorings, in the form of bars, drops, or  
30 pieces.

31 (10) "Consume" includes the putting of liquor to any use, whether  
32 by drinking or otherwise.

33 (11) "Contract liquor store" means a business that sells liquor on  
34 behalf of the board through a contract with a contract liquor store  
35 manager.

36 (12) "Craft distillery" means a distillery that pays the reduced  
37 licensing fee under RCW 66.24.140.

1 (13) "Dentist" means a practitioner of dentistry duly and regularly  
2 licensed and engaged in the practice of his profession within the state  
3 pursuant to chapter 18.32 RCW.

4 (14) "Distiller" means a person engaged in the business of  
5 distilling spirits.

6 (15) "Domestic brewery" means a place where beer and malt liquor  
7 are manufactured or produced by a brewer within the state.

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

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

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

18 (19) "Employee" means any person employed by the board.

19 (20) "Flavored malt beverage" means:

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

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

28 (21) "Fund" means 'liquor revolving fund.'

29 (22) "Hotel" means buildings, structures, and grounds, having  
30 facilities for preparing, cooking, and serving food, that are kept,  
31 used, maintained, advertised, or held out to the public to be a place  
32 where food is served and sleeping accommodations are offered for pay to  
33 transient guests, in which twenty or more rooms are used for the  
34 sleeping accommodation of such transient guests. The buildings,  
35 structures, and grounds must be located on adjacent property either  
36 owned or leased by the same person or persons.

37 (23) "Importer" means a person who buys distilled spirits from a

1 distillery outside the state of Washington and imports such spirituous  
2 liquor into the state for sale to the board or for export.

3 (24) "Imprisonment" means confinement in the county jail.

4 (25) "Liquor" includes the four varieties of liquor herein defined  
5 (alcohol, spirits, wine and beer), and all fermented, spirituous,  
6 vinous, or malt liquor, or combinations thereof, and mixed liquor, a  
7 part of which is fermented, spirituous, vinous or malt liquor, or  
8 otherwise intoxicating; and every liquid or solid or semisolid or other  
9 substance, patented or not, containing alcohol, spirits, wine or beer,  
10 and all drinks or drinkable liquids and all preparations or mixtures  
11 capable of human consumption, and any liquid, semisolid, solid, or  
12 other substance, which contains more than one percent of alcohol by  
13 weight shall be conclusively deemed to be intoxicating. Liquor does  
14 not include confections or food products that contain one percent or  
15 less of alcohol by weight.

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

18 (27) "Malt beverage" or "malt liquor" means any beverage such as  
19 beer, ale, lager beer, stout, and porter obtained by the alcoholic  
20 fermentation of an infusion or decoction of pure hops, or pure extract  
21 of hops and pure barley malt or other wholesome grain or cereal in pure  
22 water containing not more than eight percent of alcohol by weight, and  
23 not less than one-half of one percent of alcohol by volume. For the  
24 purposes of this title, any such beverage containing more than eight  
25 percent of alcohol by weight shall be referred to as "strong beer."

26 (28) "Package" means any container or receptacle used for holding  
27 liquor.

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

30 (30) "Permit" means a permit for the purchase of liquor under this  
31 title.

32 (31) "Person" means an individual, copartnership, association, or  
33 corporation.

34 (32) "Physician" means a medical practitioner duly and regularly  
35 licensed and engaged in the practice of his profession within the state  
36 pursuant to chapter 18.71 RCW.

37 (33) "Prescription" means a memorandum signed by a physician and

1 given by him to a patient for the obtaining of liquor pursuant to this  
2 title for medicinal purposes.

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

18 (35) "Regulations" means regulations made by the board under the  
19 powers conferred by this title.

20 (36) "Restaurant" means any establishment provided with special  
21 space and accommodations where, in consideration of payment, food,  
22 without lodgings, is habitually furnished to the public, not including  
23 drug stores and soda fountains.

24 (37) "Sale" and "sell" include exchange, barter, and traffic; and  
25 also include the selling or supplying or distributing, by any means  
26 whatsoever, of liquor, or of any liquid known or described as beer or  
27 by any name whatever commonly used to describe malt or brewed liquor or  
28 of wine, by any person to any person; and also include a sale or  
29 selling within the state to a foreign consignee or his agent in the  
30 state. "Sale" and "sell" shall not include the giving, at no charge,  
31 of a reasonable amount of liquor by a person not licensed by the board  
32 to a person not licensed by the board, for personal use only. "Sale"  
33 and "sell" also does not include a raffle authorized under RCW  
34 9.46.0315: PROVIDED, That the nonprofit organization conducting the  
35 raffle has obtained the appropriate permit from the board.

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

1 (39) "Spirits" means any beverage which contains alcohol obtained  
2 by distillation, except flavored malt beverages, but including wines  
3 exceeding twenty-four percent of alcohol by volume.

4 (40) "Store" means a state liquor store established under this  
5 title.

6 (41) "Tavern" means any establishment with special space and  
7 accommodation for sale by the glass and for consumption on the  
8 premises, of beer, as herein defined.

9 (42) "Winery" means a business conducted by any person for the  
10 manufacture of wine for sale, other than a domestic winery.

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

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

32 (44) "Wine distributor" means a person who buys wine from a  
33 domestic winery, wine certificate of approval holder, or wine importer,  
34 or who acquires foreign produced wine from a source outside of the  
35 United States, for the purpose of selling the same not in violation of  
36 this title, or who represents such vintner or winery as agent.

37 (45) "Wine importer" means a person or business within Washington

1 who purchases wine from a wine certificate of approval holder or who  
2 acquires foreign produced wine from a source outside of the United  
3 States for the purpose of selling the same pursuant to this title."

4 Renumber the remaining sections consecutively and correct the  
5 title.

EFFECT: Removes the exclusivity requirement for authorized representatives of out-of-state breweries and wineries and allows breweries and wineries to appoint more than one authorized representative. Removes the restriction that an out-of-state winery or brewery may not appoint an authorized representative if the winery or brewery holds a certificate of approval. (Certificates of approval allow an out-of-state winery or brewery to sell to a Washington distributor or sell directly to a Washington retailer with an endorsement.) Limits authorized representatives to representatives of beer and wine produced in the United States.

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