
HOUSE BILL 2642

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By Representatives Kenney, Probst, Maxwell, Ericks, Conway, Hasegawa, Sullivan, Springer, Pettigrew, Chase, Dickerson, White, Carlyle, Chandler, Rolfes, Hunt, and Moeller

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1 AN ACT Relating to wine tasting at farmers markets; amending RCW
2 66.24.170 and 66.28.040; creating a new section; and providing an
3 expiration date.

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

5 NEW SECTION. **Sec. 1.** (1) The liquor control board shall establish
6 a pilot project as provided in this section to allow wine tasting at
7 farmers markets.

8 (2) The pilot project shall consist of ten farmers markets with at
9 least six days of tastings to be conducted by one or two wineries at
10 each farmers market between July 1, 2010, and September 30, 2011. The
11 pilot project farmers markets shall be selected by the liquor control
12 board in consultation with statewide organizations of farmers markets.
13 The board shall make an effort to select farmers markets throughout the
14 entire state.

15 (3) Farmers markets chosen to participate in the pilot project must
16 be authorized on January 1, 2010, to allow wineries to sell bottled
17 wine at retail under RCW 66.24.170. A winery offering samples under
18 this section must have an endorsement on January 1, 2010, from the

1 liquor control board to sell wine of its own production at a farmers
2 market under RCW 66.24.170.

3 (4) Samples may be offered only under the following conditions:

4 (a) Each sample must be two ounces or less, up to a total of four
5 ounces per customer per day. A winery may provide only one sample of
6 any single brand and type of wine to a customer per day. If two
7 wineries offer samples at a farmers market on a tasting day, a winery
8 may provide only a total of two ounces of wine per customer per day.

9 (b) A winery may advertise that it offers samples only at the
10 winery's booth, stall, or other designated location at the farmers
11 market.

12 (c) Customers must remain at the winery's booth, stall, or other
13 designated location while sampling wine.

14 (d) Winery licensees and employees who are involved in sampling
15 activities under this section must hold a class 12 or class 13 alcohol
16 server permit.

17 (5) The liquor control board may establish additional requirements
18 by rule to ensure that persons under twenty-one years of age and
19 apparently intoxicated persons cannot possess or consume alcohol under
20 the authority granted in this section.

21 (6) The liquor control board may prohibit sampling at a farmers
22 market that is within the boundaries of an alcohol impact area
23 recognized by resolution of the board if the board finds that the
24 sampling activities at the farmers market are having an adverse effect
25 on the reduction of chronic public inebriation in the area.

26 (7) The liquor control board shall report on the pilot project to
27 the appropriate committees of the legislature by December 1, 2011.

28 **Sec. 2.** RCW 66.24.170 and 2009 c 373 s 4 are each amended to read
29 as follows:

30 (1) There shall be a license for domestic wineries; fee to be
31 computed only on the liters manufactured: Less than two hundred fifty
32 thousand liters per year, one hundred dollars per year; and two hundred
33 fifty thousand liters or more per year, four hundred dollars per year.

34 (2) The license allows for the manufacture of wine in Washington
35 state from grapes or other agricultural products.

36 (3) Any domestic winery licensed under this section may also act as
37 a retailer of wine of its own production. Any domestic winery licensed

1 under this section may act as a distributor of its own production.
2 Notwithstanding any language in this title to the contrary, a domestic
3 winery may use a common carrier to deliver up to one hundred cases of
4 its own production, in the aggregate, per month to licensed Washington
5 retailers. A domestic winery may not arrange for any such common
6 carrier shipments to licensed retailers of wine not of its own
7 production. Except as provided in this section, any winery operating
8 as a distributor and/or retailer under this subsection shall comply
9 with the applicable laws and rules relating to distributors and/or
10 retailers, except that a winery operating as a distributor may maintain
11 a warehouse off the premises of the winery for the distribution of wine
12 of its own production provided that: (a) The warehouse has been
13 approved by the board under RCW 66.24.010; and (b) the number of
14 warehouses off the premises of the winery does not exceed one.

15 (4) A domestic winery licensed under this section, at locations
16 separate from any of its production or manufacturing sites, may serve
17 samples of its own products, with or without charge, and sell wine of
18 its own production at retail, provided that: (a) Each additional
19 location has been approved by the board under RCW 66.24.010; (b) the
20 total number of additional locations does not exceed two; (c) a winery
21 may not act as a distributor at any such additional location; and (d)
22 any person selling or serving wine at an additional location for on-
23 premise consumption must obtain a class 12 or class 13 alcohol server
24 permit. Each additional location is deemed to be part of the winery
25 license for the purpose of this title. At additional locations
26 operated by multiple wineries under this section, if the board cannot
27 connect a violation of RCW 66.44.200 or 66.44.270 to a single licensee,
28 the board may hold all licensees operating the additional location
29 jointly liable. Nothing in this subsection shall be construed to
30 prevent a domestic winery from holding multiple domestic winery
31 licenses.

32 (5)(a) A domestic winery licensed under this section may apply to
33 the board for an endorsement to sell wine of its own production at
34 retail for off-premises consumption at a qualifying farmers market.
35 The annual fee for this endorsement is seventy-five dollars. An
36 endorsement issued pursuant to this subsection does not count toward
37 the two additional retail locations limit specified in this section.

1 (b) For each month during which a domestic winery will sell wine at
2 a qualifying farmers market, the winery must provide the board or its
3 designee a list of the dates, times, and locations at which bottled
4 wine may be offered for sale. This list must be received by the board
5 before the winery may offer wine for sale at a qualifying farmers
6 market.

7 (c) The wine sold at qualifying farmers markets must be made
8 entirely from grapes grown in a recognized Washington appellation or
9 from other agricultural products grown in this state.

10 (d) Each approved location in a qualifying farmers market is deemed
11 to be part of the winery license for the purpose of this title. Except
12 as provided in section 1 of this act, the approved locations under an
13 endorsement granted under this subsection do not include the tasting or
14 sampling privilege of a winery. The winery may not store wine at a
15 farmers market beyond the hours that the winery offers bottled wine for
16 sale. The winery may not act as a distributor from a farmers market
17 location.

18 (e) Before a winery may sell bottled wine at a qualifying farmers
19 market, the farmers market must apply to the board for authorization
20 for any winery with an endorsement approved under this subsection to
21 sell bottled wine at retail at the farmers market. This application
22 shall include, at a minimum: (i) A map of the farmers market showing
23 all booths, stalls, or other designated locations at which an approved
24 winery may sell bottled wine; and (ii) the name and contact information
25 for the on-site market managers who may be contacted by the board or
26 its designee to verify the locations at which bottled wine may be sold.
27 Before authorizing a qualifying farmers market to allow an approved
28 winery to sell bottled wine at retail at its farmers market location,
29 the board shall notify the persons or entities of such application for
30 authorization pursuant to RCW 66.24.010 (8) and (9). An authorization
31 granted under this subsection (5)(e) may be withdrawn by the board for
32 any violation of this title or any rules adopted under this title.

33 (f) The board may adopt rules establishing the application and
34 approval process under this section and such additional rules as may be
35 necessary to implement this section.

36 (g) For the purposes of this subsection:

37 (i) "Qualifying farmers market" means an entity that sponsors a
38 regular assembly of vendors at a defined location for the purpose of

1 promoting the sale of agricultural products grown or produced in this
2 state directly to the consumer under conditions that meet the following
3 minimum requirements:

4 (A) There are at least five participating vendors who are farmers
5 selling their own agricultural products;

6 (B) The total combined gross annual sales of vendors who are
7 farmers exceeds the total combined gross annual sales of vendors who
8 are processors or resellers;

9 (C) The total combined gross annual sales of vendors who are
10 farmers, processors, or resellers exceeds the total combined gross
11 annual sales of vendors who are not farmers, processors, or resellers;

12 (D) The sale of imported items and secondhand items by any vendor
13 is prohibited; and

14 (E) No vendor is a franchisee.

15 (ii) "Farmer" means a natural person who sells, with or without
16 processing, agricultural products that he or she raises on land he or
17 she owns or leases in this state or in another state's county that
18 borders this state.

19 (iii) "Processor" means a natural person who sells processed food
20 that he or she has personally prepared on land he or she owns or leases
21 in this state or in another state's county that borders this state.

22 (iv) "Reseller" means a natural person who buys agricultural
23 products from a farmer and resells the products directly to the
24 consumer.

25 (6) Wine produced in Washington state by a domestic winery licensee
26 may be shipped out-of-state for the purpose of making it into sparkling
27 wine and then returned to such licensee for resale. Such wine shall be
28 deemed wine manufactured in the state of Washington for the purposes of
29 RCW 66.24.206, and shall not require a special license.

30 **Sec. 3.** RCW 66.28.040 and 2009 c 373 s 8 are each amended to read
31 as follows:

32 Except as permitted by the board under RCW 66.20.010, no domestic
33 brewery, microbrewery, distributor, distiller, domestic winery,
34 importer, rectifier, certificate of approval holder, or other
35 manufacturer of liquor shall, within the state of Washington, give to
36 any person any liquor; but nothing in this section nor in RCW 66.28.010
37 shall prevent a domestic brewery, microbrewery, distributor, domestic

1 winery, distiller, certificate of approval holder, or importer from
2 furnishing samples of beer, wine, or spirituous liquor to authorized
3 licensees for the purpose of negotiating a sale, in accordance with
4 regulations adopted by the liquor control board, provided that the
5 samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210,
6 and in the case of spirituous liquor, any product used for samples must
7 be purchased at retail from the board; nothing in this section shall
8 prevent the furnishing of samples of liquor to the board for the
9 purpose of negotiating the sale of liquor to the state liquor control
10 board; nothing in this section shall prevent a domestic brewery,
11 microbrewery, domestic winery, distillery, certificate of approval
12 holder, or distributor from furnishing beer, wine, or spirituous liquor
13 for instructional purposes under RCW 66.28.150; nothing in this section
14 shall prevent a domestic winery, certificate of approval holder, or
15 distributor from furnishing wine without charge, subject to the taxes
16 imposed by RCW 66.24.210, to a not-for-profit group organized and
17 operated solely for the purpose of enology or the study of viticulture
18 which has been in existence for at least six months and that uses wine
19 so furnished solely for such educational purposes or a domestic winery,
20 or an out-of-state certificate of approval holder, from furnishing wine
21 without charge or a domestic brewery, or an out-of-state certificate of
22 approval holder, from furnishing beer without charge, subject to the
23 taxes imposed by RCW 66.24.210 or 66.24.290, or a domestic distiller
24 licensed under RCW 66.24.140 or an accredited representative of a
25 distiller, manufacturer, importer, or distributor of spirituous liquor
26 licensed under RCW 66.24.310, from furnishing spirits without charge,
27 to a nonprofit charitable corporation or association exempt from
28 taxation under section 501(c)(3) or (6) of the internal revenue code of
29 1986 (26 U.S.C. Sec. 501(c)(3) or (6)) for use consistent with the
30 purpose or purposes entitling it to such exemption; nothing in this
31 section shall prevent a domestic brewery or microbrewery from serving
32 beer without charge, on the brewery premises; nothing in this section
33 shall prevent donations of wine for the purposes of RCW 66.12.180;
34 nothing in this section shall prevent a domestic winery from serving
35 wine without charge, on the winery premises; ~~((and))~~ nothing in this
36 section shall prevent a craft distillery from serving spirits without
37 charge, on the distillery premises subject to RCW 66.24.145; and

1 nothing in this section shall prevent a winery from serving samples at
2 a farmers market under section 1 of this act.

3 NEW SECTION. **Sec. 4.** This act expires December 1, 2011.

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