

---

SECOND SUBSTITUTE SENATE BILL 5175

---

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Pelz and Deccio; by request of Liquor Control Board)

Read first time 02/02/96.

1 AN ACT Relating to certain retail liquor licensees being licensed  
2 as manufacturers; amending RCW 66.28.010; adding a new section to  
3 chapter 66.24 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature that  
6 holders of annual on-premises retail liquor licenses be allowed to  
7 operate manufacturing facilities on those premises. This privilege is  
8 viewed as a means of enhancing and meeting the needs of the licensees'  
9 patrons without being in violation of the tied-house statute  
10 prohibitions of RCW 66.28.010. Furthermore, it is the intention of the  
11 legislature that this type of business not be viewed as primarily a  
12 manufacturing facility. Rather, the public house licensee shall be  
13 viewed as an annual retail licensee who is making malt liquor primarily  
14 for on-premises consumption by the patrons of the licensed premises.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 66.24 RCW  
16 to read as follows:

17 (1) A public house license allows the licensee:

1 (a) To annually manufacture no less than two hundred fifty gallons  
2 and no more than three thousand barrels of beer on the licensed  
3 premises;

4 (b) To sell product, that is produced on the licensed premises, at  
5 retail on the licensed premises for consumption on the licensed  
6 premises;

7 (c) To sell beer or wine not of its own manufacture for consumption  
8 on the licensed premises if the beer or wine has been purchased from a  
9 licensed beer or wine wholesaler;

10 (d) To hold other classes of retail licenses at other locations  
11 without being considered in violation of RCW 66.28.010;

12 (e) To apply for and, if qualified and upon the payment of the  
13 appropriate fee, be licensed as a class H restaurant to do business at  
14 the same location. This fee is in addition to the fee charged for the  
15 basic public house license.

16 (2) While the holder of a public house license is not to be  
17 considered in violation of the prohibitions of ownership or interest in  
18 a retail license in RCW 66.28.010, the remainder of RCW 66.28.010  
19 applies to such licensees.

20 (3) A public house licensee must pay all applicable taxes on  
21 production as are required by law, and all appropriate taxes must be  
22 paid for any product sold at retail on the licensed premises.

23 (4) The employees of the licensee must comply with the provisions  
24 of mandatory server training in RCW 66.20.300 through 66.20.350.

25 (5) The holder of a public house license may not hold a  
26 wholesaler's or importer's license, act as the agent of another  
27 manufacturer, wholesaler, or importer, or hold a brewery or winery  
28 license.

29 (6) The annual license fee for a public house is one thousand  
30 dollars.

31 (7) The holder of a public house license may hold other licenses at  
32 other locations if the locations are approved by the board.

33 (8) Existing holders of annual retail liquor licenses may apply for  
34 and, if qualified, be granted a public house license at one or more of  
35 their existing liquor licensed locations without discontinuing business  
36 during the application or construction stages.

37 **Sec. 3.** RCW 66.28.010 and 1994 c 63 s 1 are each amended to read  
38 as follows:

1       (1)(a) No manufacturer, importer, or wholesaler, or person  
2 financially interested, directly or indirectly, in such business,  
3 whether resident or nonresident, shall have any financial interest,  
4 direct or indirect, in any licensed retail business, nor shall any  
5 manufacturer, importer, or wholesaler own any of the property upon  
6 which such licensed persons conduct their business, nor shall any such  
7 licensed person, under any arrangement whatsoever, conduct his or her  
8 business upon property in which any manufacturer, importer, or  
9 wholesaler has any interest. Except as provided in subsection (3) of  
10 this section, no manufacturer, importer, or wholesaler shall advance  
11 moneys or moneys' worth to a licensed person under an arrangement, nor  
12 shall such licensed person receive, under an arrangement, an advance of  
13 moneys or moneys' worth(~~(:—PROVIDED, That)~~). "Person" as used in this  
14 section only shall not include those state or federally chartered  
15 banks, state or federally chartered savings and loan associations,  
16 state or federally chartered mutual savings banks, or institutional  
17 investors which are not controlled directly or indirectly by a  
18 manufacturer, importer, or wholesaler as long as the bank, savings and  
19 loan association, or institutional investor does not influence or  
20 attempt to influence the purchasing practices of the retailer with  
21 respect to alcoholic beverages. No manufacturer, importer, or  
22 wholesaler shall be eligible to receive or hold a retail license under  
23 this title, nor shall such manufacturer, importer, or wholesaler sell  
24 at retail any liquor as herein defined(~~(:—PROVIDED, That)~~).

25       (b) Nothing in this section shall prohibit a licensed brewer from  
26 being licensed as a retailer pursuant to chapter 66.24 RCW for the  
27 purpose of selling beer or wine at retail on the brewery premises and  
28 nothing in this section shall prohibit a domestic winery from being  
29 licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of  
30 selling beer or wine at retail on the winery premises. Such beer and  
31 wine so sold at retail shall be subject to the taxes imposed by RCW  
32 66.24.290 and 66.24.210 and to reporting and bonding requirements as  
33 prescribed by regulations adopted by the board pursuant to chapter  
34 34.05 RCW, and beer and wine that is not produced by the brewery or  
35 winery shall be purchased from a licensed beer or wine wholesaler(~~(:—  
36 PROVIDED FURTHER, That)~~).

37       (c) Nothing in this section shall prohibit a licensed brewer or  
38 domestic winery, or a lessee of a licensed brewer or domestic winery,  
39 from being licensed as a class H restaurant pursuant to chapter 66.24

1 RCW for the purpose of selling liquor at a class H premises on the  
2 property on which the primary manufacturing facility of the licensed  
3 brewer or domestic winery is located or on contiguous property owned by  
4 the licensed brewer or domestic winery as prescribed by regulations  
5 adopted by the board pursuant to chapter 34.05 RCW.

6 (2) Financial interest, direct or indirect, as used in this  
7 section, shall include any interest, whether by stock ownership,  
8 mortgage, lien, or through interlocking directors, or otherwise.  
9 Pursuant to rules promulgated by the board in accordance with chapter  
10 34.05 RCW manufacturers, wholesalers and importers may perform, and  
11 retailers may accept the service of building, rotating and restocking  
12 case displays and stock room inventories; rotating and rearranging can  
13 and bottle displays of their own products; provide point of sale  
14 material and brand signs; price case goods of their own brands; and  
15 perform such similar normal business services as the board may by  
16 regulation prescribe.

17 (3)(a) This section does not prohibit a manufacturer, importer, or  
18 wholesaler from providing services to a class G or J retail licensee  
19 for: (i) Installation of draft beer dispensing equipment or  
20 advertising, (ii) advertising, pouring or dispensing of beer or wine at  
21 a beer or wine tasting exhibition or judging event, or (iii) a class G  
22 or J retail licensee from receiving any such services as may be  
23 provided by a manufacturer, importer, or wholesaler(~~(:—PROVIDED,~~  
24 ~~That)).~~ Nothing in this section shall prohibit a retail licensee, or  
25 any person financially interested, directly or indirectly, in such a  
26 retail licensee from having a financial interest, direct or indirect,  
27 in a business which provides, for a compensation commensurate in value  
28 to the services provided, bottling, canning or other services to a  
29 manufacturer, so long as the retail licensee or person interested  
30 therein has no direct financial interest in or control of said  
31 manufacturer.

32 (b) A person holding contractual rights to payment from selling a  
33 liquor wholesaler's business and transferring the license shall not be  
34 deemed to have a financial interest under this section if the person  
35 (i) lacks any ownership in or control of the wholesaler, (ii) is not  
36 employed by the wholesaler, and (iii) does not influence or attempt to  
37 influence liquor purchases by retail liquor licensees from the  
38 wholesaler.

1 (c) The board shall adopt such rules as are deemed necessary to  
2 carry out the purposes and provisions of subsection (3)(a) of this  
3 section in accordance with the administrative procedure act, chapter  
4 34.05 RCW.

5 (4) A license issued under RCW 66.24.395 does not constitute a  
6 retail license for the purposes of this section.

7 (5) A public house license issued under section 2 of this act does  
8 not violate the provisions of this section as to a retailer having an  
9 interest directly or indirectly in a liquor-licensed manufacturer.

--- END ---